

# REPORT / RECOMMENDATION



**To:** MAYOR AND COUNCIL

**Agenda Item #:** VI.B.

**From:** Kris Aaker, Assistant City Planner

**Action** ☒

**Discussion** ☐

**Information** ☐

**Date:** July 16, 2013

**Subject:** PUBLIC HEARING – Conditional Use Permit & Variances, Allow First Floor Elevation Of More Than One Foot Above Existing Floor and Setback Variances From Arrowhead Lake and Indian Hills Road, 6612 Indian Hills Road, Edina, Malcolm Liepke, Resolution No. 2013-57

**Action Requested:**

Adopt the attached resolution.

**Information / Background:**

The applicant is proposing to tear down the existing house and construct a new home at 6612 Indian Hills Road. A Conditional Use Permit and Variances are requested to allow the first floor elevation of the new home to exceed the first floor elevation of the existing home by more than one foot. The applicant is proposing to raise the first floor elevation 3.8 feet above the existing entry elevation; 2.8 feet above the allowable limit. The front entry of the existing home is at 900.2 feet with an allowed increase in height by code to 901.2 feet. The proposed height of the first floor for the new home would be at 904 feet. There is a higher main level front entry to the existing multi-level home that is at 904.3 feet, which is slightly higher than the proposed first floor, (904). Setback variances are also requested from Arrowhead Lake. The request is for an 8.67 foot setback Variance from Arrowhead Lake to locate the new home 4.22 feet farther back from the Lake than the existing home. A 25 foot setback Variance is requested to allow terrace area to be 50 feet from Arrowhead Lake. The previous plan had terrace area 41.08 feet from the water's edge. A 3.08 foot setback from Indian Hills Road is requested for a minor point intrusion of the sub-grade garage. The previous plan included a bedroom wing with a terrace and wall extension into the front yard setback, which has been eliminated.

The applicant has revised the plan since Planning Commission review and has reduced the footprint of the building, which reduces the amount of Variances requested from Arrowhead Lake and the front yard setback Variances needed from Indian Hills Road.

Planning Commission Recommendation: On May 8, 2013, the Planning Commission moved to approve the request of the Variances and Conditional Use Permit. The motion failed approval by an even split vote. It is recommended that approval be subject to the following additional conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance in terms of the house location, mass and over-all height with the following plans, unless modified by the conditions below:
  - Grading and Erosion Control Plans dated: June 6, 2013.
  - Landscape Plan dated: July 8, 2013.
  - Building plans/ elevations dated: June 6, 2013.
1. Submit a copy of the Nine Mile Creek Watershed District permit. The City may require revisions to the approved plans to meet the District's requirements.
2. Final grading and drainage plans are subject to review and approval of the City Engineer prior to issuance of a building permit.
3. The execution and recording of a Conservation Restriction 50 feet upland from the Ordinary High Water Level of Arrowhead Lake.

The applicant has submitted smaller house plans reducing the lot coverage, reducing and eliminating Variances from Indian Hills Road. A revision summary of the project is as follows:

- Reduced the proposed house footprint by 1,800 sq. ft., (30% reduction).
- Reduced the impervious lot coverage by 2,257 sq. ft., (4.6% reduction).
- Moved the lakeside terraces back 9 ft. to locate all terraces and structures 50 ft. from the Ordinary High Water Line.
- Located the house 3'-10" farther back from the OHW line.
- Omitted the front yard setback Variance needed for the bedroom wing.
- Reduced the front yard setback Variance for the sub-grade garage wall to slightly over 3 ft. for a minor point intrusion into the setback required.

The applicant has submitted landscape, grading and drainage plans as recommended by the Planning Commission. (See attached plans dated June 7, 2013 and July 8, 2013). The applicant has begun the process of applying for the Nine Mile Creek Watershed District cost sharing program regarding a shoreline planting buffer.

**ATTACHMENTS:**

- Revised site and building plans.

- Revised landscape, grading and Erosion Control plans.
- Illustrated rendering of view from Indian Hills Road showing house and proposed landscaping.
- Resolution No. 2013-57
- Draft minutes from the May 8, 2013, Edina Planning Commission meeting
- Planning Commission Staff Report, May 8, 2013



**RESOLUTION NO. 2013-57**  
**APPROVING A CONDITIONAL USE PERMIT & VARIANCE**  
**AT 6612 6612 INDIAN HILLS ROAD FOR MALCOLM LIEPKE**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, as follows:

**Section 1. BACKGROUND.**

- 1.01 The applicant is requesting a Conditional Use Permit and Variances to tear down and construct a new home at 6612 Indian Hills Road.
- 1.02 A Conditional Use Permit and Variances are requested to allow the first floor elevation of the new home to exceed the first floor elevation of the existing home by more than one foot. The applicant is proposing to raise the first floor elevation 3.8 feet above the existing first floor elevation; 2.8 feet about the allowable limit. The first floor of the existing home is at 900.2 feet with an allowed increase in height by code to 901.2 feet. The height of first floor for the new home would be at 904 feet.
- 1.03 A 8.67 foot setback Variance from Arrowhead Lake to locate the new home 4.22 feet farther back from the lake than the existing home. A 25 foot setback Variance is requested to allow terrace area to be 50 feet from Arrowhead Lake.
- 1.04 A 3.08 foot setback variance from Indian hills Road for a minor point intrusion into the setback for a partial sub-grade garage.
- 1.05 The property is legally described as follows:  
  
Lot 1, Block 2, Indian Hills and Lot 1, Block 1, Indian Hills Peterson Addition according to the recorded plat thereof, Hennepin County, Minnesota
- 1.06 On May 8, 2013, the Planning Commission moved to approve the request of the Variances and Conditional Use Permit. The motion failed approval by an even split vote.

**Section 2. FINDINGS**

- 2.01 Approval is based on the following findings:
  1. The proposal meets the Conditional Use Permit conditions of the Zoning Ordinance Section 850.04, Subd E.
  2. The proposal will keep the new first floor at approximately the same height as the existing main level of the home.

**CITY OF EDINA**



3. The proposed home is in character within this neighborhood. There are a variety of housing styles throughout the Indian Hills neighborhood. There have been a number of properties that have had homes re-built on them that are of similar or are larger in size, mass and scale.
4. The proposal would meet the required standards for a variance, because:
  - a. The improvements would provide a reasonable use of a corner lot subjected to two front yard setbacks. The proposed home would uphold the established front setback pattern already existing on the block. The setback proposed for the home from Arrowhead Lake would be farther back from the Lake edge than the existing home. Because of the angle of setback from the Lake, only a small portion of the terrace extends beyond the setback of the existing home.
  - b. The setback from Indian Hills Road is for a minor point intrusion of the subgrade garage. The intrusion is a small triangular over-lap into the setback.
  - c. The home is appropriate in size and scale for the 49,079 square foot lot. The home is designed to be low profile and to fit within the existing topography. The neighbor to the east has a "no build" lot between their lot and the new home limiting impact to the east.
  - d. The practical difficulties include the steep slopes on the lot, the irregular shape of the lot, and the required setbacks based on the adjacent home which has an 80-foot front yard setback, and the 75 foot setback required from Arrowhead Lake.
  - e. This lot is subjected to much deeper setbacks than a typical single dwelling lot.
  - f. The first floor is defined by the entry level of a multi-level home instead of defined by the existing main floor of the current home. There are two entry doors along the front elevation with one at a higher elevation than the proposed first floor. The proposed first floor will match what is considered the main floor of the multi-level home.
  - g. The purpose behind the ordinance is to maintain an adequate distance from water bodies. The ordinance is meant to prevent a continual erosion of the setback standards. Duplicating the Lake setback of the existing home would not compromise the intent of the ordinance to provide spacing from a natural resource. The new home will be 4.22 feet farther back from the Lake than the existing home. The new home is low profile with a flat roof and would be elevated above the Lake.

### **Section 3. APPROVAL**

NOW THEREFORE, it is hereby resolved by the City Council of the City of Edina, approves the Conditional Use Permit and Variance to allow construction of a new home at 6612 Indian Hills Road, subject to the following conditions:

1. The site must be developed and maintained in conformance with the following plans:
  - Site Plan dated June 7, 2013

- Grading and Erosion control Plan dated June 6, 2013.
  - Landscape Plan dated July 8, 2013.
  - Building plans and elevations dated June 7, 2013.
2. Submit a copy of the Nine Mile Creek Watershed District permit if required. The City may require revisions to the approved plans to meet the district's requirements.
  3. Final grading and drainage plans are subject to review and approval of the City Engineer prior to issuance of a building permit. Drainage patterns may not be directed to adjacent properties.
  4. The execution and recording of a Conservation Restriction 50 feet upland from the Ordinary High Water level of Arrowhead Lake.

Adopted by the City Council of the City of Edina, Minnesota, on July, 16 2013.

ATTEST: \_\_\_\_\_  
Debra A. Mangen, City Clerk

\_\_\_\_\_  
James B. Hovland, Mayor

STATE OF MINNESOTA            )  
COUNTY OF HENNEPIN        )SS  
CITY OF EDINA                 )

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Resolution was duly adopted by the Edina City Council at its Regular Meeting of July 16, 2013, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this \_\_\_\_ day of \_\_\_\_\_, 2013.

\_\_\_\_\_  
City Clerk

## TRANSMITTAL

TO: Edina Planning Department  
ATTN: Kris Aaker, Assistant City Planner

DATE: **07.08.2013**  
PROJECT NO. **2012.16**

PROJECT NAME: 6612 Indian Hills Road-Liepke Residence

**REGARDING: Conditional Use and Variances-City Council Hearing**

Dear Kris,

Enclosed please find (11) 11x17 copies and (1) full sized set of the architectural drawings and supporting documents for your review showing revisions we have made based on the Planning Commission Hearing and subsequent meetings with some of the Council Members and Mayor.

Since our Planning Commission Hearing on 5.8.13 we have done the following:

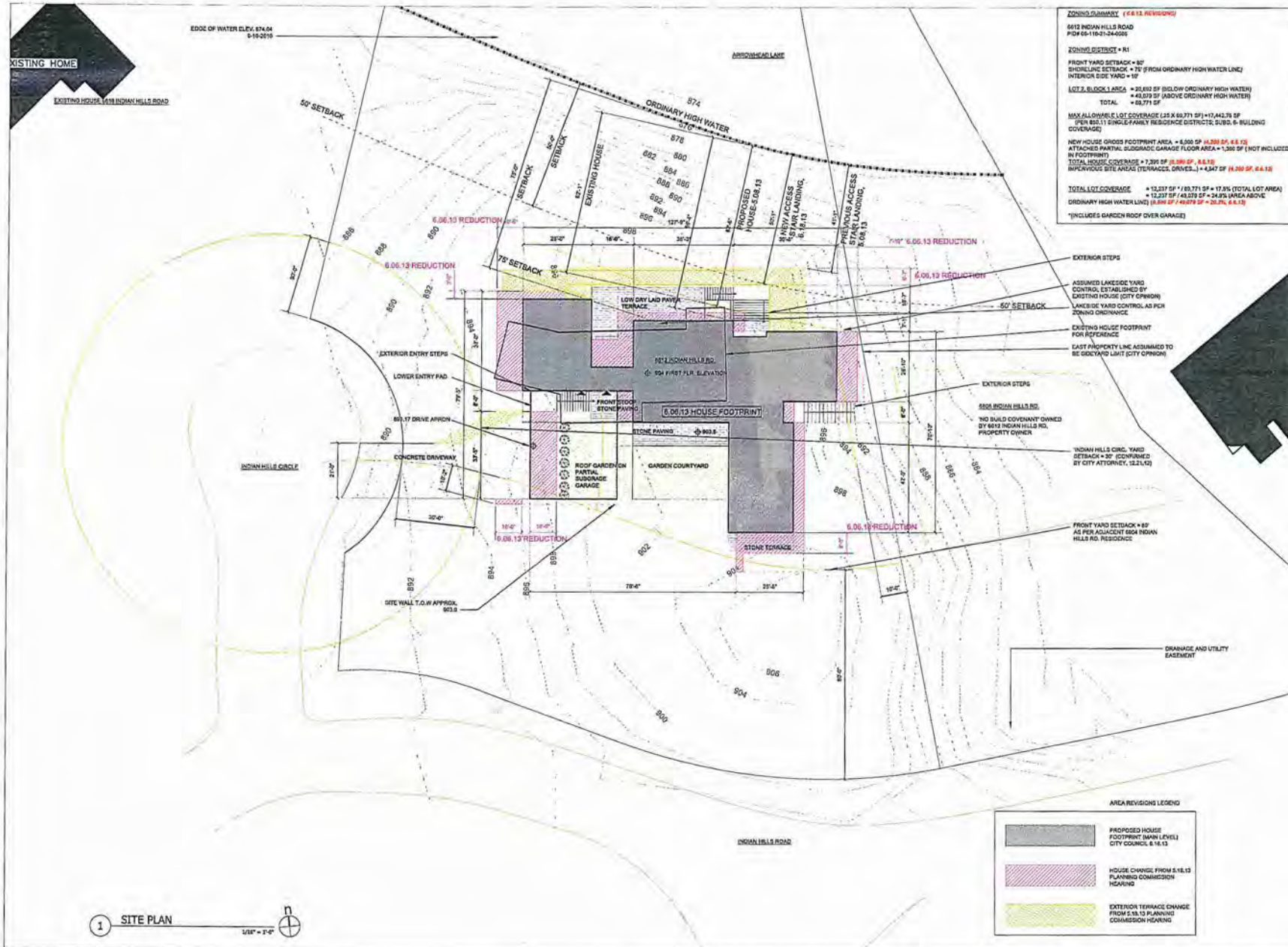
1. Met with council members and Mayor Hovland to introduce the project and hear their concerns.
2. Hired a landscape architect to provide a grading and drainage plan.
3. Significantly reduced the house footprint and exterior terrace areas.
4. Reviewed the Nine Mile Creek Watershed District (NMCWD) Cost sharing program and have begun the process to apply.
5. Prepared a landscaping plan (sheet L1.0)
6. Provided illustrated rendering of a view from Indian Hills Road showing proposed house and landscaping.

### Quantitative Revision Summary

1. Reduced the proposed house footprint by 1,800 sf (30% reduction)
2. Reduced the impervious lot coverage by 2,257 sf (4.6% reduction)
3. Moved the lakeside terraces back 9' to locate all terraces and house structures beyond 50' from the Ordinary High Water line.
4. Located the house 3'-10" further back from the lake OHW line.
5. Omitted the front yard setback required by the bedroom wing.
6. Reduced the front yard setback required by a corner of the partially subgrade garage wall to 15" or 37" to the masonry site wall adjacent. Interpretation is the thick masonry 'site' wall considered house 'siding' or a site element as relates to the encroachment within the 'yard'?

Sincerely,

Christian Dean, AIA  
CHRISTIAN DEAN ARCHITECTURE, LLC  
In collaboration with CDS, Inc.



**PROJECT**

LIEPKE RESIDENCE  
5612 INDIAN HILLS ROAD  
EDEN PRAIRIE, MN

**OWNER**

MALCOLM & MICHELLE LIEPKE  
2544 W LAKE OF THE ISLES DRIVE  
MINNEAPOLIS, MN 55409-3338

**ARCHITECT**

CHRISTIAN DEAN ARCHITECTURE, LLC  
4327 BEARD AVE. S.  
MINNEAPOLIS, MN 55410

CONTACT: CHRISTIAN DEAN, AIA  
612.362.2031  
CDAN@DEANARCH.COM

**JOINTLY CONTRACTED WITH**

CITYDESIGNSTUDIO, INC.  
505 5TH AVENUE SE  
SUITE 215  
MINNEAPOLIS, MN 55414

**LANDSCAPE ARCHITECTURE**

TRAVIS VAN LIEKE STUDIO, LLC  
MINNEAPOLIS, MN

CONTACT: TRAVIS VAN LIEKE, PLA  
612.362.5867

**ISSUES**

DESIGN REVIEW	12.21.12
CITY ZONING APPLICATIONS	03.12.13
CITY COUNCIL CUP	06.07.13
SITE PLAN	06.08.13
REDUCED	

**DATE:** 06.07.13

**PROJECT NO.:** 2012.16

**DRAWN BY:** CD

**SITE PLAN**

REDUCED

**A1.0**







EXISTING HOME

EXISTING HOUSE 1511 INDIAN HILLS ROAD

EXISTING MATURE TREES TO REMAIN

AGGREGATE SPILLWAY / DRAINAGE TRENCH AT ROOF SCUPPERS TYPICAL, SEE GRADING AND DRAINAGE PLAN A1.1

NATIVE GRASSES-KARL FOERSTER AT PERIMETER OF ROOF GARDEN

CIP CONCRETE DRIVE WITH INTEGRAL STAIN

BLUE STONE PAVEN IN DRESSER TRAP GRAVEL PATH ALONG MAGNOLIA WALL

NATIVE GRASSES-KARL FOERSTER ALONG PATH

EXISTING LARGE OAKS AND MAPLE

PLANTING BED: MIX OF TACHYSANON AND MULLCH GROUND COVER

(6) RUSSIAN SAGE CLUMP, OPTION RHODODENDRUM SHRUB

BLUE OAT GRASS AT EDGE OF PLANTING BED

(1) 'AUTUMN BRILLIANCE' SERVICEBERRY TREE

(3) RUSSIAN SAGE CLUMP, OPTION RHODODENDRUM SHRUB

(1) JAPANESE MAPLE

ORDINARY HIGH WATER

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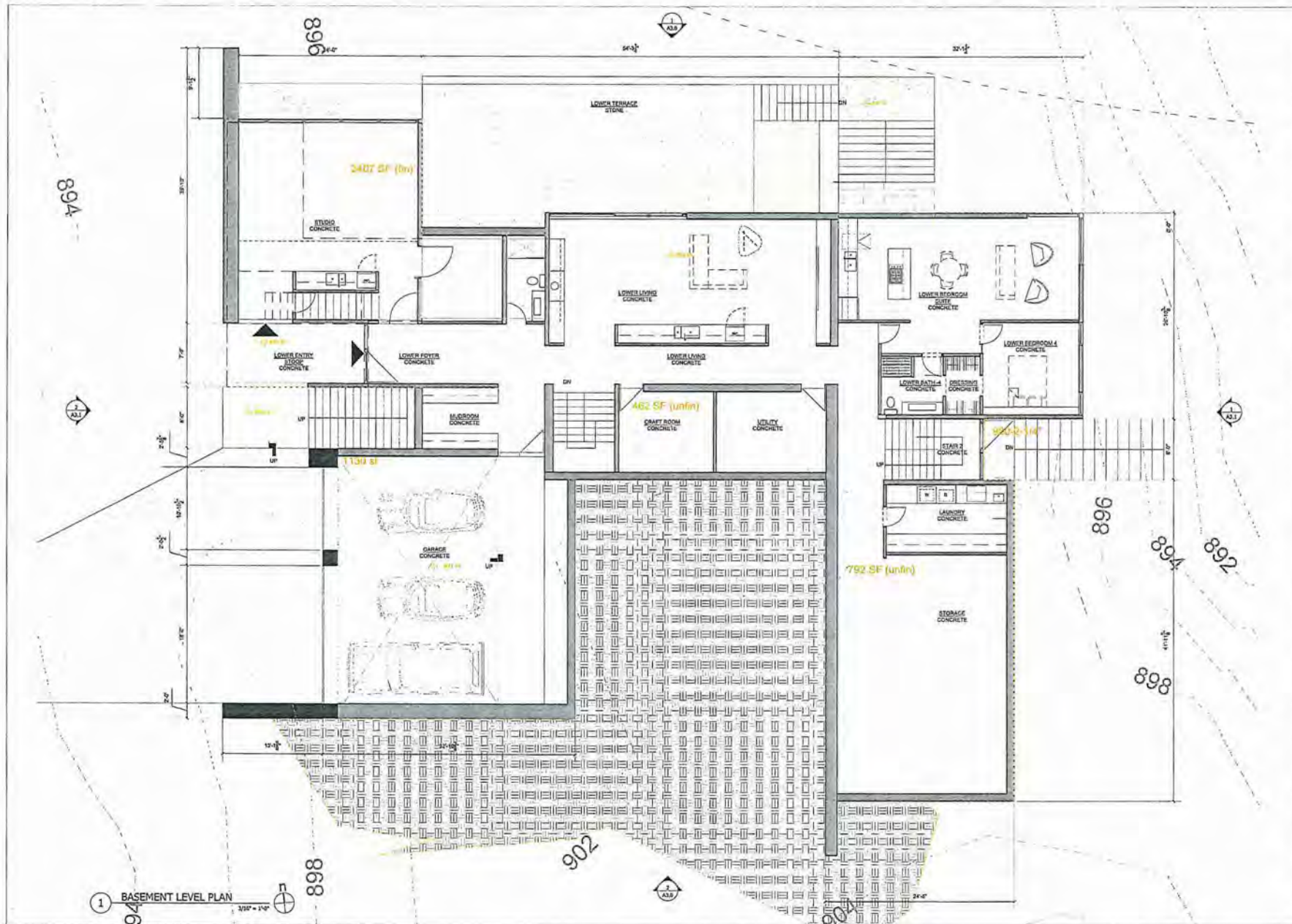
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# PROJECT

LIEPKE RESIDENCE  
8912 INDIAN HILLS ROAD  
EDINA, MN

## OWNER

MALCOLM & NICHELLE LIEPKE  
2544 W LAKE OF THE ISLES DRIVE  
MINNEAPOLIS, MN 55455-2335

## ARCHITECT

CHRISTIAN DEAN ARCHITECTURE, LLC  
4221 BEARD AVE. S.  
MINNEAPOLIS, MN 55410

CONTACT: CHRISTIAN DEAN, AIA  
612.322.2882  
cd@christiandean.com

## JOINTLY CONTRACTED WITH

CITYBESKTOUDIO, INC.  
889 15TH AVENUE SE  
SUITE 215  
MINNEAPOLIS, MN 55414

## LANDSCAPE ARCHITECTURE

TRAVIS VAN LIERE STUDIO, LLC  
MINNEAPOLIS, MN

CONTACT: TRAVIS VAN LIERE, PLA  
612.782.8487

## ISSUES

DESIGN REVIEW 12.21.12  
CITY ZONING 03.12.13  
APPLICATIONS 03.12.13  
CITY COUNCIL CUP 06.07.13

DATE: 06.07.13

PROJECT NO.: 2012.16

DRAWN BY: CD

## BASEMENT LEVEL PLAN

A2.0

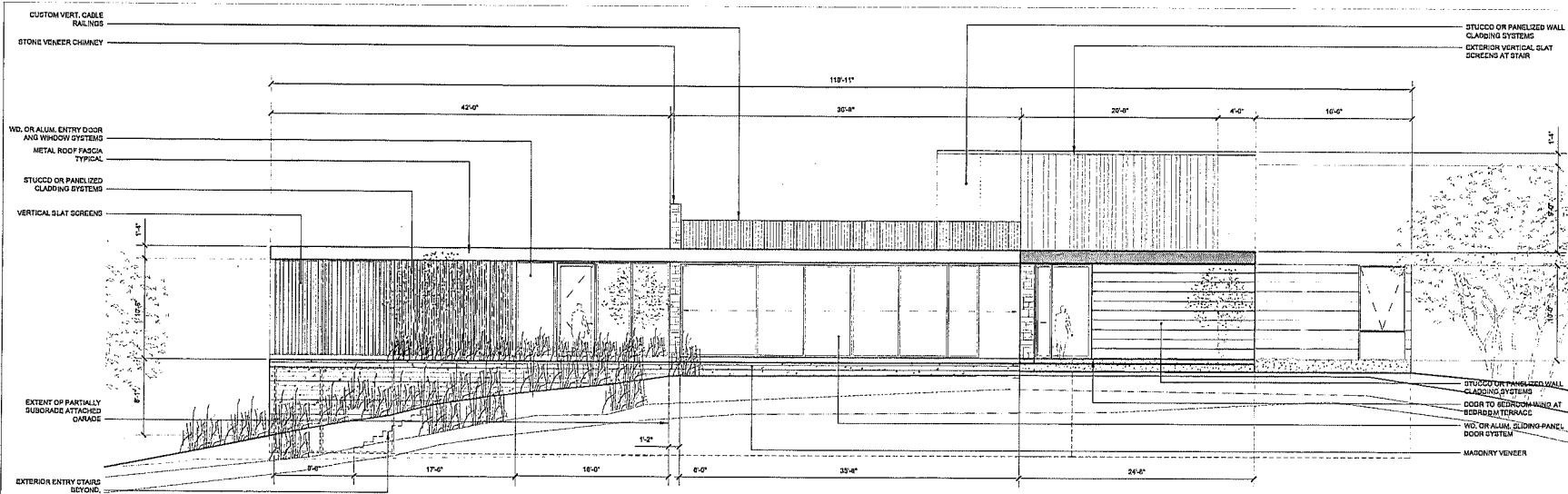




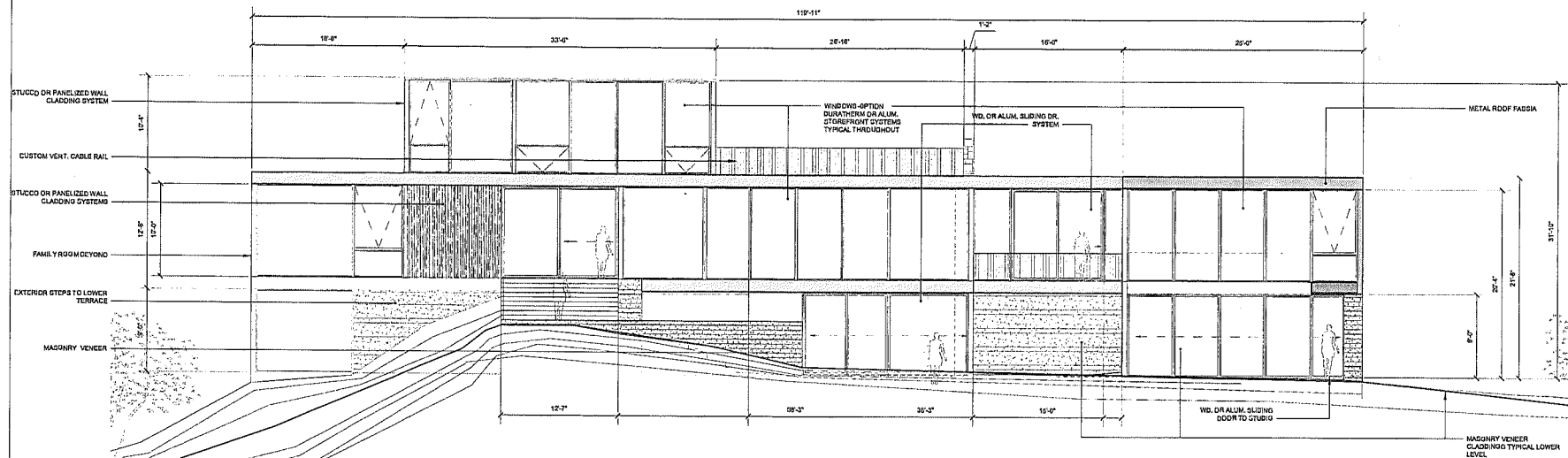








1 SOUTH ELEVATION

$$3/10^6 = 3 \cdot 10^{-6}$$


2 NORTH ELEVATION

$$3/10^4 = 1^{-8}$$

## PROJECT

LIEPKE RESIDENCE  
6812 INDIAN HILLS ROAD  
EDINA, MN

## OWNER

MALCOLM & MICHELLE LIEPKE  
2544 WLAKE OF THE ISLES PKWY  
MINNEAPOLIS, MN 55465-2335

## ARCHITECT

CHRISTIAN DEAN ARCHITECTURE, LLC  
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MINNEAPOLIS, MN 55414

## LANDSCAPE ARCHITECTURE

TRAVIS VAN LIERE STUDIO, LLC.  
MINNEAPOLIS, MN  
CONTACT: TRAVIS VAN LIERE, SLA

## ISSUES

DESIGN REVIEW	12.21.12
CITY ZONING	
APPLICATIONS	03.12.13
CITY COUNCIL CWP	06.07.13

DATE: 06.07.13

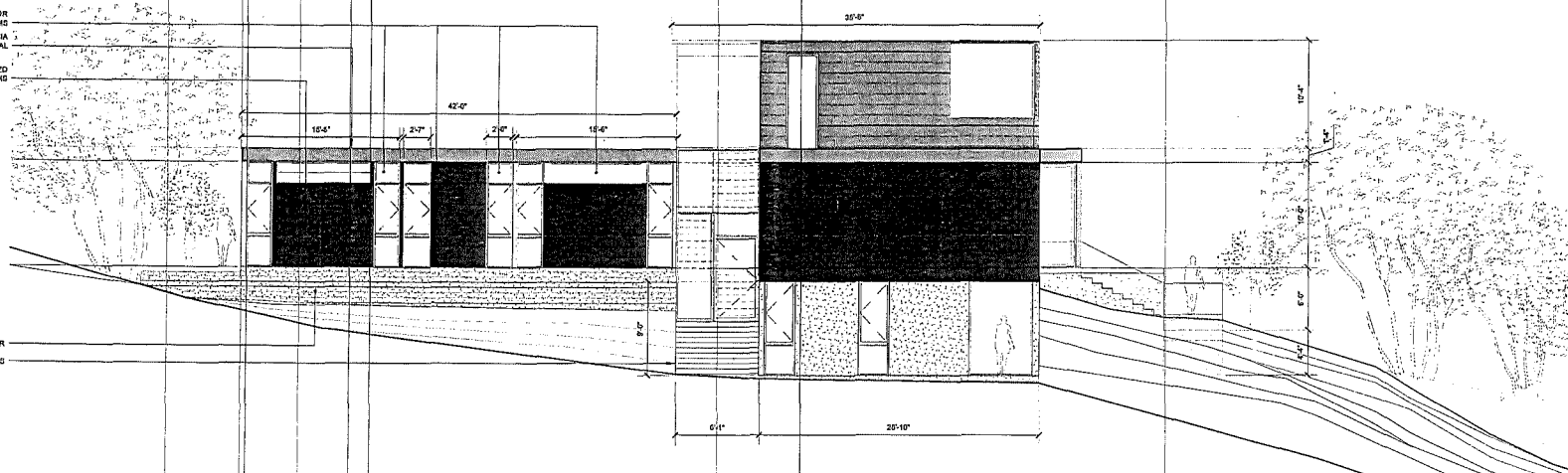
PROJECT ND.: 2012.16

DRAWN BY: CD

## ELEVATIONS

### A3.0

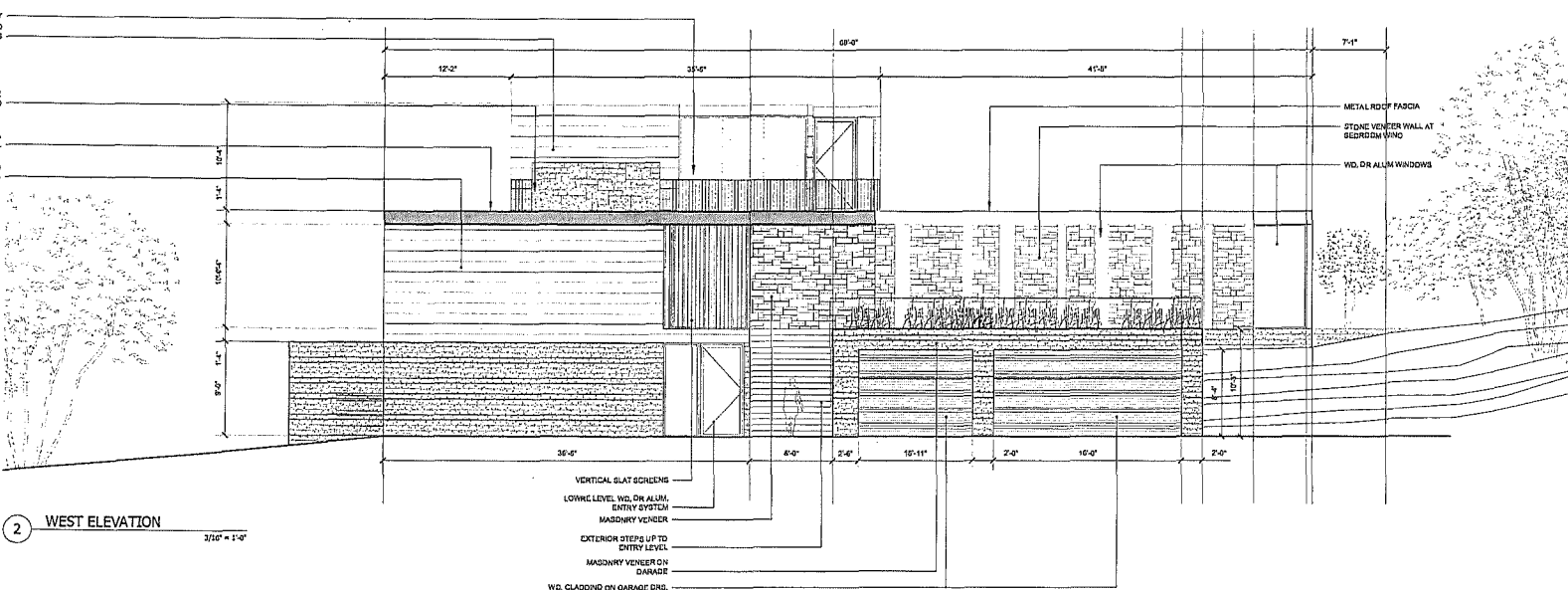
WD. OR ALUM. ENTRY DOOR  
AND WINDOW SYSTEMS  
METAL ROOF FASCIA  
TYPICAL  
STUCCO OR PANELIZED  
CLADDING SYSTEMS  
MASONRY VENEER  
EXTENDING STEPS



1 EAST ELEVATION

1/32" = 1'-0"

STONE VENEER CHIMNEY  
STUCCO OR PANELIZED  
CLADDING SYSTEMS  
CUSTOM VERT. CABLE  
RAILING  
METAL ROOF FASCIA  
TYPICAL  
STUCCO OR PANELIZED  
CLADDING SYSTEMS



2 WEST ELEVATION

1/32" = 1'-0"

VERTICAL SLAT SCREENS  
LOWRILE LEVEL WD. OR ALUM.  
ENTRY SYSTEM  
MASONRY VENEER  
EXTENDING STEPS UP TO  
ENTRY LEVEL  
MASONRY VENEER ON  
GARAGE DRG.  
WD. CLADDING ON GARAGE DRG.

PROJECT  
LIEPKE RESIDENCE  
6512 INDIAN HILLS ROAD  
EDINA, MN

OWNER  
MALCOLM & MICHELLE LIEPKE  
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MINNEAPOLIS, MN 55415-2006

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CONTACT: TRAVIS VAN LIEPKE, PLA  
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ISSUES  
DESIGN REVIEW 12.21.12  
CITY ZONING  
APPLICATIONS 03.12.13  
CITY COUNCIL CUP 06.07.13

DATE: 06.07.13  
PROJECT NO.: 2012.16  
DRAWN BY: CD

ELEVATIONS

A3.1



6612 Indian Hills Road  
Photograph of existing house from street.  
07.2013





6612 Indian Hills Road  
Rendering of proposed house and landscaping from street.  
07.2013

existing mature trees saved and protected, shown in  
actual photo, see current condition photo.

ornamental street trees-'autumn  
brilliance serviceberry'

rendering of proposed house



Indian Hills Circle

Indian Hills Road

planting bed: sage, dogwood and blue oat grasses

courtyard ornamental trees  
native grasses along courtyard and sunken garage wall



**6612 INDIAN HILLS ROAD**

**CITY OF EDINA  
CONDITIONAL USE APPLICATION**

**SUPPORTING DOCUMENTS  
REGARDING  
CITY COUNCIL HEARING-06.18.2013**

**EXISTING TOPOGRAPHY AND HOUSE MULTIPLE ENTRY CONDITIONS.**



EXISTING HOUSE AND SITE CONDITIONS SHOWING MULTIPLE ENTRANCES AND NATURAL HIGH POINT OF SITE TO THE SOUTH. THE EXISTING HIGHER MAIN LEVEL ENTRY SHOWN IN THIS PHOTO IS AT APPROXIMATELY 904.3' SIMILAR TO THE EXISTING MAIN LEVEL FLOOR. THE LOWER SPLIT LEVEL ENTRY IS AT ELEVATION 900.2'.

**CHRISTIAN DEAN  
ARCHITECTURE**

minneapolis, mn 55410  
612 3822883  
cdean@deanarch.com  
deanarch.com



EXISTING TOPOGRAPHY AND HOUSE MULTIPLE ENTRY CONDITIONS



EXISTING HOUSE AND SITE CONDITIONS SHOWING MULTIPLE ENTRANCES AND NATURAL HIGH POINT OF SITE TO THE SOUTH. THE EXISTING HIGHER MAIN LEVEL ENTRY SHOWN IN THIS PHOTO IS AT APPROXIMATELY 904.3' SIMILAR TO THE EXISTING MAIN LEVEL FLOOR. THE LOWER SPLIT LEVEL ENTRY IS AT ELEVATION 900.2'. THE HIGHEST POINT ON THE SITE TO THE RIGHT IS APPROX. 908', 4 FEET ABOVE THE EXISTING AND PROPOSED MAIN LEVEL FLOORS.

**CHRISTIAN DEAN  
ARCHITECTURE**

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## EXISTING TOPOGRAPHY AND HOUSE CONDITIONS



EXISTING HOUSE LOWEST LEVEL ENTRY AND GARAGE ENTRY AT APPROX. 895.8'



EXISTING HOUSE LAKESIDE FACADE SHOWING EXISTING BALCONIES, PATIO AND DOWNSPOUTS DRAINING TOWARD LAKE

6612 INDIAN HILLS ROAD

CITY OF EDINA  
CONDITIONAL USE APPLICATION

SUPPORTING DOCUMENTS  
REGARDING  
CITY COUNCIL HEARING-06.18.2013

**CHRISTIAN DEAN  
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6612 INDIAN HILLS ROAD

CITY OF EDINA  
CONDITIONAL USE APPLICATION

SUPPORTING DOCUMENTS  
REGARDING  
CITY COUNCIL HEARING-06.18.2013

EXISTING TOPOGRAPHY AND HOUSE CONDITIONS



HIGH NATURAL TERRAIN ON LAKESIDE OF HOUSE LOCATION. THIS IS THE APPROXIMATE LOCATION OF THE ACCESS STAIRS LEADING FROM THE HOUSE TO THE LOWER TERRACE LOCATED IN A SIMILAR POSITION TO EXISTING PATIO.

**CHRISTIAN DEAN  
ARCHITECTURE**

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612 3822883  
cdean@deanarch.com  
deanarch.com



LANDSCAPING



A PHOTO OF THE PROPERTY OWNER'S LAKE OF THE ISLES PROPERTY SHOWING THEIR COMMITMENT TO COMPREHENSIVE AUTHENTIC LANDSCAPING AND ARCHITECTURE.

6612 INDIAN HILLS ROAD

CITY OF EDINA  
CONDITIONAL USE APPLICATION

SUPPORTING DOCUMENTS  
REGARDING  
CITY COUNCIL HEARING-06.18.2013

**CHRISTIAN DEAN  
ARCHITECTURE**

minneapolis, mn 55410  
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deanarch.com

**MINUTES OF THE  
REGULAR MEETING OF THE PLANNING COMMISSION  
CITY OF EDINA, MINNESOTA  
CITY COUNCIL CHAMBERS  
MAY 8, 2013  
7:00 PM**

**I. CALL TO ORDER**

**II. ROLL CALL**

Scherer, Potts Carpenter, Kilberg, Cherkassky, Carr, Platteter, Forrest, Grabel, Staunton

Absent from Roll: Schroeder

**III. APPROVAL OF MEETING AGENDA**

Commissioner Potts moved approval of the April 24, 2013 meeting agenda. Commissioner Carpenter seconded the motion. All voted aye; motion carried.

**IV. APPROVAL OF CONSENT AGENDA**

Commissioner Potts moved approval of the February 27, 2013 meeting minutes. Commissioner Scherer seconded the motion. All voted aye; motion carried.

**V. COMMUNITY COMMENT**

*During "Community Comment," the Planning Commission will invite residents to share new issues or concerns that haven't been considered in the past 30 days by the Commission or which aren't slated for future consideration. Individuals must limit their comments to three minutes. The Chair may limit the number of speakers on the same issue in the interest of time and topic. Generally speaking, items that are elsewhere on this morning's agenda may not be addressed during Community Comment. Individuals should not expect the Chair or Commission Members to respond to their comments today. Instead, the Commission might refer the matter to staff for consideration at a future meeting.*

No public comment.

**VI. PUBLIC HEARINGS**

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**A. Variance. Roy Lecy. 6905 Valley View Road, Edina, MN**

**Planner Presentation**

Planner Aaker informed the Commission the subject property is located on the south side of Valley View Road consisting of a rambler with a tuck-under two car garage built in 1955. The lot is 26,634 square



feet in area with existing lot coverage of 6.6%. The owners are hoping to tear down the existing structure and replace it with a rambler with an attached three car garage. The owners would like to locate the new home near the existing front yard setback.

Planner Aaker explained that the current home is located 29.7 feet from the front lot line. The zoning ordinance requires that the new home maintain the average front yard setback of the homes on either side. The home to the east is located 29.7 feet from Valley View Road right-of-way and the home to the west is located 308 feet from Valley View resulting in an average front yard setback for the property of 168.85 feet. The new home will be setback from the front lot line approximately 34.89 feet, which is a greater distance from the front lot line than the existing home. The front west corner of the new home will be the closest building point to the street with the remainder of the front façade angled away from Valley View and farther from the front lot line than the existing home

The new home is proposed to be a walk-out with back yard views angled towards a pond located west of the property.

Planner Aaker concluded that staff recommends approval of the requested variance based on the following findings:

The proposal meets the required standards for a variance, because:

- a) The practical difficult is caused by the location of the home to the west that is actually located south of the subject property's rear lot line.
- b) The encroachment into the setback improves upon an existing nonconforming setback that was established when the original home was built in 1955 and was conforming at that time.

Approval of the variance is also subject to the following condition:

1. The home must be construction per the proposed plans date stamped, March 29, 2013.

#### **Appearing for the Applicant**

Roy Lecy, builder and Jim and Deb Ryman property owners.

#### **Applicant Presentation**

Roy Lecy addressed the Commission and explained that he along with the property owners worked with the adjacent neighbors fronting Mark Terrace Drive on "tweaking" the location of the new home to afford those neighbors better views. Mr. Lecy said he believes the revisions are acceptable to those neighbors.

Chair Staunton opened the public hearing.

### **Public Hearing**

Peter Sussman, 6904 Mark Terrace Drive, addressed the Commission and informed them the property owners and builder were very helpful during this process. Concluding, Sussman said he was pleased with the outcome; the revisions are acceptable.

Commissioner Platteter moved to close the public hearing. Commissioner Carpenter seconded the motion. All voted aye; motion carried.

### **Discussion**

Commissioner Carpenter said he believes the variance is justified and commended all parties on working together to achieve an acceptable outcome.

### **Motion**

Commissioner Carpenter moved approval based on staff findings and subject to staff conditions. Commissioner Platteter seconded the motion. All voted aye; motion carried.

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**B. Variance. Chris Drazan. 5501 Lakeview Drive, Edina, MN.**

### **Planner Presentation**

Planner Aaker informed the Commission the subject property is a corner lot located south and east of Lakeview Drive. The property owner is proposing to build a new home that will conform to all of the ordinance requirements with the exception of the required setbacks from Lakeview Drive.

Planner Aaker concluded that staff recommends that the Planning Commission approve the variance based on the following; with the exception of the front yard setback variance all standards and ordinances are met; the proposed use of the property is reasonable because it will uphold the established front setback pattern already existing on the block and the practical difficulty is complying with the deep front yard setbacks and the angle of the east lot line.

Approval is also subject to the plans presented

### **Appearing for the Applicant**

Doug Johnson, Builder

### **Applicant Presentation**

Mr. Johnson explained that Mr. Drazan could not be present this evening, adding Mr. Drazan informed him he spoke with neighbors; however, he was not made aware of what was discussed.

### **Public Comment.**

Margaret Shaw, 4611 Lakeview Drive expressed concerns on the location of the new house.

Commissioner Grabiell moved to close the public hearing. Commissioner Potts seconded the motion. All voted aye; motion carried.

### **Discussion**

Commissioner Grabiell said in his opinion this is more of a "McMansion" issue. He pointed out the proposed house is twice as large as the existing house. Grabiell acknowledged that except for the front yard setback variance the rest of the house meets code; however, it is also possible more could be done to mitigate the impact of the new house from the adjoining neighbor.

A discussion ensued on the rationale of shifting the house with the observation made that shifting the house could also create other issues for the neighbor.

Commissioner Forrest commented that in her opinion this is a catch-22, adding in a sense the Commission must do a balancing act. Forrest said one comment she has is that the garage wall is too "blank", adding something needs to be done to soften its impact. Forrest acknowledged regardless of what happens the new house will be a change to the neighbor.

Chair Staunton said in his opinion the practical difficulty in this instance is that the subject lot is required to maintain two front yard setbacks. Most lots are required to meet one front yard setback; not two.

### **Motion**

**Commissioner Potts moved variance approval based on staff findings and subject to staff conditions. Commissioner Carr seconded the motion. Ayes; Potts, Platteter, Carr, Staunton. Nay; Grabiell, Carpenter, Forrest. Motion carried.**

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## **C. Conditional Use Permit with Variances. Christian Dean. 6612 Indian Hills Road, Edina, MN**

### **Planner Presentation**

Planner Aaker informed the Commission the property owner, Malcolm Liepke, is proposing to tear down the existing multi-level house built in 1953 and construct a new home at 6612 Indian Hills Road. The lot Mr. Liepke owns to the east, at 6608 Indian Hills Road will remain vacant. Aaker noted the property is a corner lot located north of Indian Hills Road and east of Indian Hills Circle. The property backs up to

Arrowhead Lake. The existing home on site is a multi-level home that has had a series of additions over the years that resulted in a split/multi-level condition.

Planner Aaker explained that the new home would have a flat roof and will be contemporary in design. The proposed new home is predominantly a single story walk-out with a second floor in-set from the front walls of the home and occupying approximately 30% of the overall house length. The architect has indicated that the over-all design goal is to create a low, horizontal structure hugging the rolling landscape with portions of the structure imbedded into the topography of the site. The strategy is to be respectful of existing grades, low profile and organic. The garage would be accessed from Indian Head Circle and will be partially sub-grade with a roof garden above at entry level.

Planner Aaker reported that the applicant also owns a lot to the east at 6608 Indian Hills Road which is subject to a Restrictive Covenant recorded with the County by a previous owner which prohibits the erection of any building, dwelling or other permanent structure on the lot. The lot to the east also had a Conservation Restriction imposed upon it when approved for subdivision by the City in 1984. As part of subdivision the City imposed Conservation Easement upland from the Lake edge. The owner's vacant lot at 6608 Indian Hills Road will remain undeveloped between the new home and the neighboring home to the east.

Planner Aaker concluded that staff recommends that the City Council approve the Conditional Use Permit with Variance and the setback Variances for property located at 6612 Indian Hills Road. The Conditional Use Permit allows the new home to have a first floor elevation 2.8 feet above the one foot first floor increase of the existing home. Approval is based on the following findings:

1. The proposal meets the Conditional Use Permit conditions of the Zoning Ordinance Section 850.04, Subd E.
2. The proposal will keep the new first floor at approximately the same height as the existing main level of the home.
3. The proposed home is in character within this neighborhood. There are a variety of housing styles throughout the Indian Hills neighborhood. There have been a number of properties that have had homes re-built on them that are of similar or are larger in size, mass and scale.
4. The proposal would meet the required standards for a variance, because:
  - a. The improvements would provide a reasonable use of a corner lot subjected to two front yard setbacks. The proposed home would uphold the established front setback pattern already existing on the block with only minor point intrusions. The setbacks proposed from Arrowhead Lake include would be 6 inches farther back from the Lake edge than the existing home. Because of the angle of setback from the Lake, only a triangular portion of the terrace extends beyond the setback of the existing home.
  - b. The setbacks from Indian Hills Road are for minor point intrusions of the at-grade terrace and a subgrade garage. Both intrusions are small triangular over-laps into the setback.
  - c. The home is appropriate in size and scale for the 49,079 square foot lot. The home is designed to be low profile and to fit within the existing topography. The neighbor to the east has a "no build" lot between their lot and the new home limiting impact to the east.

- d. The practical difficulties include the steep slopes on the lot, the irregular shape of the lot, and the required setbacks based on the adjacent home which has an 80-foot front yard setback, and the 75 foot setback required from Arrowhead Lake.
- e. This lot is subjected to much deeper setbacks than a typical single dwelling lot.
- f. The first floor is defined by the entry level of a multi-level home instead of defined by the existing main floor of the current home.
- g. The purpose behind the ordinance is to maintain an established front yard sight line and street scape and to maintain adequate distance from water bodies. The ordinance is meant to prevent a continual erosion of both of those setback standards. The front yard setback over-laps are minor point intrusions that do not affect adjacent properties. Duplicating the Lake setback of the existing home would not compromise the intent of the ordinance to provide spacing from a natural resource. The new home is low profile with a flat roof and would be elevated above the Lake.

Approval is also subject to the following conditions:

1. Subject to staff approval, the site must be developed and maintained in substantial conformance in terms of the house location, mass and over-all height with the following plans, unless modified by the conditions below:
  - Survey date stamped: April 24, 2013
  - Building plans/ elevations date stamped: April 24, 2013.
1. Submit a copy of the Minnehaha Creek Watershed District permit. The City may require revisions to the approved plans to meet the District's requirements.
2. Final grading and drainage plans are subject to review and approval of the City Engineer prior to issuance of a building permit.
3. The execution and recording of a Conservation Easement 41 feet upland from the Ordinary High Water level of Arrowhead Lake.

#### **Appearing for the Applicant**

Mr. & Mrs. Liepke and Christian Dean, Architect

#### **Discussion**

Commissioner Carpenter asked for clarification on the Conditional Use Permit process and if this process was the result of a problem a previous resident had with ground water? Planner Aaker responded in the affirmative, adding this process was recently developed to respond to a change in variance criteria.

Commissioner Grabiell asked if Arrowhead Lake has a public access point. Aaker responded that she doesn't believe so.

#### **Applicant Presentation**

Mr. Dean addressed the Commission and with the aid of graphics indicated their intent was to



design a low slung house while making every effort to tie the house in with the topography. Dean added the house is modern with an organic design that is very sensitive to the natural topography.

### **Discussion**

Commissioner Platteter expressed concern about the variance from the lake and how important it is to maintain that setback.

Commissioner Forrest commented that she respects the design of the new house; however is also concerned with the setback from the lake.

### **Public Hearing**

Harry Joslyn, 6718 Indian Hills Road, Edina, MN spoke in favor of the proposal.

David Swendsen, 6616 Pawnee Road, Edina, MN spoke in favor of the proposal.

Chair Staunton asked if anyone else would like to speak to the issue; being none Commissioner Grabiell moved to close the public hearing. Commissioner Forrest seconded the motion. All voted aye; motion carried.

### **Discussion**

Commissioner Grabiell commented that it appears the DNR created a requirement that's "one size fits all", pointing out City Ordinance allows the City to grant variances from the DNR restrictions. Grabiell pointed out Edina is an urban area and there are many properties in Edina that do not meet the DNR mandated setbacks. Planner Aaker agreed adding the previous setback requirement from water bodies was 25-feet.

Chair Staunton asked why Arrowhead is required to maintain a greater setback from water bodies than the standard DNR established at 50-feet. Planner Teague responded based on environmental conditions the DNR established a 75-foot setback from Arrowhead Lake, Indianhead Lake, and Lake Cornelia and Mirror Lake.

Commissioner Forrest said she is having difficulty in finding practical difficulties to support the setback variance from the lake; especially for the terrace/deck. She added she also struggles with the Conditional Use pointing out this request doesn't meet conditions one through three.

Chair Staunton said he's a little distressed the Conditional Use Permit process the Commission and Council approved isn't technically being "used" how it was intended. Staunton said he may be struggling with the setback of the terrace from Arrowhead; however, wants to be supportive of the Conditional Use Permit adding the design of the house is a great.

Commissioner Platteter stated he agrees the design of the house is very good but he continues to struggle with the setback from Arrowhead for both house and terrace. Platteter said he can't support the Conditional Use Permit because the setback to Arrowhead is one of the factors.

Commissioner Scherer stated she lives in the neighborhood and likes the architect's adherence to the topography. Scherer noted the new house would be located at the exact setback from Arrowhead Lake as the previous house.

A lengthy discussion ensued on the setback from Arrowhead Lake for the on-grade terrace and if the proposed terrace/deck would be made of permeable materials.

Chair Staunton asked the applicant if they thought about locating the house closer to the street which would increase the setback from the lake.

Mr. Liepke told the Commission much thought was given to the location of the house. He said the house is situated in a natural area. He pointed out if the house was moved farther forward the natural knoll would need to be removed which would require a lot of grading and more disturbance to the lot. Liepke also explained neighbors have expressed support for the house and its location.

Mr. Dean stated they worked with the intent and the spirit of the Code. He pointed out there is a park like quality to this lot; partially due to the uniqueness of the adjacent vacant lot at 6608 Indian Hills Road. Dean stated the 6608 lot would never be developed per restrictive covenant. Continuing, Dean pointed out only the new proposed exterior terraces are located closer to the lake than the existing structure, adding those terraces are visually less impactful outdoor spaces than a raised deck. Dean stated the property owners will make every effort to provide permeable pavers for the terraces.

Commissioner Carr asked if the terraces would be stone. Mr. Liepke responded he is not certain at this time; however his primary concern is the environment. He also informed the Commission the site would also be landscaped replacing the buckthorn which was found throughout the lot. Concluding, Liepke said he wants to be good stewards of this lot.

Commissioner Forrest said to her it would be helpful if the Commission decides to approve this request that a condition for approval would be requiring a landscaping plan and the use of permeable terrace materials on the terraces. Commissioners Carr and Scherer agreed that conditions of approval should be added to a motion.

Commissioner Potts stated he continues to struggle with the lake side, adding he feels the entire house should be moved closer to the street.

Mr. Liepke reiterated the neighbors also support the layout of the house; especially the residents along the lake.

### **Motion**

Commissioner Grabiell moved Conditional Use Permit Approval based on staff findings and subject to staff conditions. Approval also requires the applicant to provide the City with a landscaping plan and to use permeable materials on the terrace(s). Commissioner Carpenter seconded the motion.

A discussion ensued on the additional conditions with Commissioner indicating those conditions would remain.

Chair Staunton called for the vote; Ayes; Scherer, Carr, Grabiell, Staunton. Nay; Potts, Platteter, Carpenter, Forrest. Motion failed 4-4

## **VII. REPORTS AND RECOMMENDATIONS**

### **A. Sketch Plan Review – 6500 France Avenue, Edina, MN**

#### **Planner Presentation**

Planner Teague informed the Commission Mount Properties has requested that the Commission consider a new sketch plan proposal to redevelop the property at 6500 France Avenue. Teague reminded the Commission Mount Properties previously received approval of a five-story, 62-foot tall, and 102,478 square foot medical office/retail building with attached ramp.

Teague explained the new sketch plan is a change in use to 109 units of senior assisted living; and 100 units of transitional and memory care. Teague stated to accommodate this request, an amendment to the Comprehensive Plan and an amendment to the PUD Zoning District is required.

#### **Appearing for the Applicant**

Stephen Michals, Mount Properties and Ed Farr, Edward Farr Architects Inc. Luigi Bernardi, Aurora Investments and Susan Farr, Ebenezer.

#### **Discussion**

Commissioner Kilberg noted that the plans depicted a skyway and asked Planner Teague if the skyway would require a variance. Teague responded that that was a good question, adding the skyway would require further review as part of the formal application process and at that time it would be ascertained if a variance was required.



## **Applicant Presentation**

Mr. Michals addressed the Commission and explained the change in use from a medical office/retail building to a senior assisted living facility is unique because of its proximity to Fairview Southdale Hospital and its use as a specialized senior care facility. Michals reported the new building would be operated by Ebenezer as a part of the Fairview Healthcare Systems. Continuing, Michals noted the recently constructed senior assisted living facility at 7500 York Avenue (York Gardens) is an award winning senior facility that is 100% leased and is also operated by Ebenezer. Michals said retail support services are also proposed for the "community" to include a pharmacy, Bistro, and a senior designed urgent care clinic. Michals introduced Susan Farr, of Ebenezer.

Susan Farr explained Ebenezer believes the location of the proposed senior facility is excellent. It is proposed as a continuum of care from assisted to nursing home including short term stay options. Farr noted the proposed skyway would connect the medical uses provided by the hospital to the residents of the proposed building.

Ed Farr delivered a power point presentation.

## **Questions**

Commissioner Grabiell stated parking could be an issue for him. Planner Teague explained that the proposed use requires less parking than the previously approved medical office/retail use. Grabiell asked Teague for a breakdown of nursing/ apartment units in the proposed facility. Teague reported at this time the applicant is proposing a building with 109 senior assisted living units and 100 units which can be considered as nursing home type units. Teague said the applicant has indicated parking for the new use would be adequate.

Commissioner Platteter said he agrees with Gabriel's concern over parking and questioned where visitors would park; and if visitors would be permitted to use the hospital ramp to park.

Mr. Michals indicated the site provides 136 enclosed parking stalls and 8 surface parking stalls. He pointed out this is a senior building where parking demand is low, adding Ebenezer is very good with parking ratios and they have expressed the opinion that the proposed facility provides adequate parking. Use of the ramp would also be an option.

Planner Teague commented that the City has also asked WSB to take a look at parking for the site and provide the City with a change in use traffic analysis.

Commissioner Platteter noted that this proposal is a sharp increase in density and to the best of his knowledge it's also a density the City hasn't been asked to support. Platteter asked Planner Teague to look for density comparisons so when the applicant returns with a formal application the Commission can see what a building of this size and use "feels" like. Continuing, Platteter acknowledged this is a unique facility, adding it's not a "true" apartment building; it appears

part hospital. Platteter commented that the Commission has always been cautious with requests to amend the Comprehensive Plan. Reiterating density is an issue for him and an amendment to the Comprehensive Plan needs further thought.

Chair Staunton commented that Ebenezer operates York Gardens and asked what the advantage is of this facility over York Gardens. Ms. Farr responded the difference is the location and the medical amenities provided by this location. Farr also noted this facility will also be a nursing home with extended stay suites and observation rooms. Residents of this facility will be able to "age in place" with all their needs met at this building. Technically residents of the building wouldn't need a car.

Commissioner Forrest asked Ms. Farr if the facility has an age requirement. Farr responded in the affirmative. Forrest asked if the moratorium on nursing homes was lifted. Farr responded it hasn't been lifted yet. Forrest also commented on affordability and asked if there would be affordable units. Farr responded they are still working through the numbers; however, a percentage of the housing units would be affordable under the elderly waiver.

Continuing, Forrest asked if this location could be considered isolating because of the busy street and the lack of day to day amenities in the immediate area. Ms. Farr responded this facility would provide a van to drive able bodied seniors to different locations and it would also be a full service building. Farr added that Ebenezer does a lot with "Lifelong Learning" such as music and art classes. They also offer a number of intergenerational activities. Farr reported that a couple of their facilities contain a day care center on site. Concluding, Farr said their goal is to enhance the life of seniors; it's not going to be a building where the residents feel "locked down".

Commissioner Carr commented that she likes the design of the building. Carr said in her opinion this project is architecturally pleasing, it's not just flat building walls, concluding that she especially likes the carved out terraces and court yards.

Commissioner Potts noted the building now has more of a residential feel and asked how this building differs from the previous building with regard to structure. Mr. Farr responded that the previous building was a steel frame building with columns and beams with precast concrete floor systems. The new building is a cast in place post tension concrete design building which is top of the line and is also quieter than a steel cast building. Potts also asked if any thought was given to sustainability measures. Farr responded they aren't quite there yet.

Commissioner Scherer stated she likes the idea of continuous care, adding the concept is great and the location of the new Twin City Orthopedics in relation to this building is also a plus.

Commissioner Grabiell questioned if there could be a "fatigue factor" with senior housing. He pointed out the new facility at 7500 York and the Waters as examples of recent senior housing additions to Edina. Continuing, Grabiell also asked the applicant what's changed from then to

now, pointing out the Commission and Council went through almost a year of meetings to achieve the previously approved medical office/retail building.

Mr. Farr responded with regard to senior housing Edina is an "old" zip code and the market analysis indicates Edina's residents would like to remain in their City as they age. Mr. Michals also added at the time of the original application the Fairview Health Systems wasn't involved and in January we were provided with new information and the partnership with Fairview Health Systems/Ebenezer and Aurora was formed. Continuing, Michals said Aurora Investments would own the building reiterating Ebenezer would operate the facility.

Commissioner Kilberg informed the Commission he has worked with Ebenezer and has the utmost respect for their organization, adding he sees this redevelopment as a plus. Kilberg stated he likes the additional greenspace, concluding this is more appealing in his opinion.

Commissioner Forrest said she believes maintaining a high quality of life for seniors along with continuous care is great; however, she stated the Commission worked hard on the previous project and project across the street. Forrest said she remembers during the discussions on the TCO building that the Commission expressed the desire for this area to become a medical campus and enhance the pedestrian experience while doing so. She pointed out this facility is now residential and the experience for the pedestrian would change. Concluding, Forrest stated in her opinion this request changes the vision for this area, adding she is concerned about that.

Chair Staunton opened the meeting for public comment stressing that this is not a public hearing.

#### **Public Comment**

The following residents expressed concern with the project:

Susan Laiderman, 6566 France Avenue #402.

John Windhorst, 6566 France Avenue, #204

Mr. Laiderman 6566 France Avenue, #402

Marilyn Kemme, 6566 France Avenue, #1206

#### **Discussion**

The discussion ensued with Commissioners expressing the opinion that the project is too dense. It was also noted that this project requires a change in use and the Commission and Council will have to revisit their previous vision for this area and decide if this proposal warrants a change in



vision. Commissioners acknowledged they understood how the change in use occurred but the basic "use" of this corner must now be resolved by the question is the change in use right.

Commissioners also agreed that in many ways this building is a good transition. They indicated the height appears consistent and the skyway is an important amenity. Concluding, Commissioners reiterated the increase in density is of concern; however, it is mitigated by the decrease in traffic. Commissioners suggested to staff if this returns as a formal application that staff finds comparable buildings. Commissioners stated they want to know how a building with this density would look and interact.

Chair Staunton thanked the applicants for their presentation.

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#### **B. Zoning Ordinance Update – Residential Development**

Chair Staunton acknowledged the materials received from staff, adding at this time there would be no further discussion on the ordinance update; however, he suggested if Commissioners had any comments or additions to what staff provided to e-mail staff their suggestions, etc. Concluding, Staunton said the goal is to have the public hearing on the amendments to the ordinance sometime in June.

#### **C. Grandview District – Selection of two Planning Commissioners for a Community Advisory Team (CAT)**

Chair Staunton told the Commission that he; along with Commissioners Schroeder would be serving on the CAT.

Commissioner Scherer moved to appoint Chair Staunton and Commissioner Schroeder as members of the Grandview Advisory Team. (CAT). Commissioner Grabiell seconded the motion. All voted aye; motion carried.

#### **VII. CORRESPONDENCE AND PETITIONS**

Chair Staunton acknowledged back of packet materials.

#### **VIII. CHAIR AND COMMISSION MEMBER COMMENTS**

Chair Staunton also informed the Commission the Council may request that a small area plan be done on the Wooddale and Valley View Road neighborhood. He added when that "plan" receives the "go ahead" volunteers would be needed.

Chair Staunton also asked the Commission to keep "in the back of their mind" that mid-term is coming up for review of the Comprehensive Plan.

**IX. STAFF COMMENTS**

None

**X. ADJOURNMENT:**

Commissioner Carr moved meeting adjournment at 11:20 PM. Commissioner Potts seconded the motion. All voted aye; motion carried.

Chair Staunton thanked everyone for attending.

*Jackie Hoogenakker*

Respectfully submitted.



## PLANNING COMMISSION STAFF REPORT

Originator: <b>Kris Aaker</b> <b>Assistant City Planner</b>	Meeting Date <b>May 8, 2013</b>	Agenda # <b>2013.010</b>
Through: <b>Cary Teague, Community Development Director</b>		

### Recommended Action:

Approve a Conditional Use Permit (CUP) with the following Variances:

1. Variance from the CUP requirements to allow the new first floor elevation of a home to exceed the 1-foot maximum increase allowed by ordinance.
2. A 4.7-foot setback Variance from Indian Hills Road to allow a small portion of a stone terrace and corner of the subgrade garage in the front yard.
3. A 12.5-foot setback Variance from Arrowhead Lake to locate the new home at approximately the same setback from the lake as the existing home.
4. A 33.92-foot setback variance from Arrowhead Lake for an on-grade terrace beyond the back wall of the new home.

### Project Description & Background:

The property owner, Malcolm Liepke, is proposing to tear down the existing multi-level house built in 1953 and construct a new home at 6612 Indian Hills Road. The lot Mr. Liepke owns the lot to the east, at 6608 Indian Hills Road as well which will remain vacant. (See site location maps, Ariel photos and photos of the existing home and neighboring homes on pages A.1 – A.9).

The property is a corner lot located north of Indian Hills Road and east of Indian Hills Circle. The property backs up to Arrowhead Lake. The existing home on site is a multi-level home that has had a series of additions over the years that resulted in a split/multi-level condition.



The new home would have a flat roof and will be contemporary in design. The proposed new home is predominantly a single story walk-out with a second floor in-set from the front walls of the home and occupying approximately 30% of the overall house length. The architect has indicated that the over-all design goal is to create a low, horizontal structure hugging the rolling landscape with portions of the structure imbedded into the topography of the site. The strategy is to be respectful of existing grades, low profile and organic. The garage would be accessed from Indian Head Circle and will be partially sub-grade with a roof garden above at entry level, (see attachments A.10 - A.18, survey, site plans, building plans and elevations).

The applicant also owns a lot to the east at 6608 Indian Hills Road which is subject to a Restrictive Covenant recorded with the County by a previous owner which prohibits the erection of any building, dwelling or other permanent structure on the lot, (see attachment A.19 – A.20) The lot to the east also had a Conservation Restriction imposed upon it when approved for subdivision by the City in 1984. As part of subdivision the City imposed a Conservation Easement upland from the Lake edge, (see attachment A.21) The owner's vacant lot at 6608 Indian Hills Road will remain undeveloped between the new home and the neighboring home to the east.

The proposed plan requires the following:

- A Conditional Use Permit with a Variance from the conditions required for a Conditional Use Permit to allow the new first floor elevation of the proposed home to be higher than one foot above the existing first floor. The applicant is proposing to raise the first floor elevation 4 feet above the entry level of the existing home. The first floor of the existing home as defined by ordinance is the entry level of a split level home. The entry level of the subject home is at 900.2 feet with an allowed increase in height by code to 901.2 feet. The proposed first floor height of the new home would be at 904 feet. As indicated, the entry level of the existing home is at 900.2, but the main level living space of the existing home is higher, at 904.3. The new first floor at 904 feet is proposed to be slightly lower than the main level of the existing multi-level house, (904.3). The ordinance does not take into consideration where the main level living area is in relation to the entry level of a multi-level home. In this instance, the main floor of the existing home is 4.3 feet higher than the entry level and would be at approximately the same level as the proposed first floor of the new home. Along with requesting a Conditional Use permit, the applicant is requesting a variance from the conditions required for granting a Conditional Use Permit because the project does not satisfy the criteria that would allow an increase in first floor height.
- A 4.7-foot setback Variance from Indian Hills Road to allow a small portion of a stone terrace and corner of the subgrade garage in the front yard.

- A 12.5-foot setback Variance from Arrowhead Lake to locate the new home at approximately the same setback from the lake as the existing home.
- A 33.92-foot setback variance from Arrowhead Lake for an on-grade terrace beyond the back wall of the new home.

### **Surrounding Land Uses**

Northerly: Single-Unit residential homes; zoned and guided low-density residential/Arrowhead Lake.

Easterly: Single Unit residential homes; zoned and guided low-density residential.

Southerly: Single Unit residential homes; zoned and guided low-density residential.

Westerly: Single-family residential homes; zoned and guided low-density residential.

### **Existing Site Features**

The existing 49,079 square foot lot contains a multi-level, single-family home with an attached two car garage built in 1953. The adjacent lot to the east at 6608 Indian Hills Road is owned by the applicant and will remain vacant.

### **Planning**

Guide Plan designation: Low-Density Residential  
 Zoning: R-1, Single-Dwelling District

### **Grading & Drainage**

The grading must not impact adjacent neighbors. Final grading and drainage plans are subject to review and approval of the City Engineer at the time of building permit application. The proposed plans may require review and approval by the Minnehaha Creek Watershed District.

## Zoning Requirements:

Compliance Table

	City Standard	Proposed
Front – South	80 feet	<b>*75 feet</b>
Side – East	10 feet	76 feet
Rear– Arrowhead Lake (North)	75 feet	<b>*41.08/62.5 feet</b>
Side – West	30 feet	30 feet
Building Coverage	25%	24.9%
Building Height	40 feet/30 mid pt.	28 feet

### **\*Variances required**

### **Conditional Use Permit**

Per Section 850.04 Subd. 5.E, the City Council shall not grant a Conditional Use Permit unless it finds that the establishment, maintenance and operation of the use:

- 1. Does not have an undue adverse impact on governmental facilities, utilities, services or existing or proposed improvements;***

The proposal for a tear down and rebuild of a new single-family home will not have an impact on governmental facilities or services. A single-family home is a permitted use on the site.

- 2. Will generate traffic within the capacity of the streets serving the property;***

The proposal to tear down and rebuild a single-family home would not have an impact on traffic or the capacity of the streets serving the property. The use, a single-family home, remains the same on the property.

- 3. Does not have an undue adverse impact on the public health, safety or welfare;***

There would be no impact, as the use of the property remains the same as exists today.

- 4. Will not impede the normal and orderly development and improvement of other property in the vicinity;***



The proposed new home would replace an existing home on the site and would not impede future development of other properties in the vicinity.

**5. *Conforms to the applicable restrictions and special conditions of the district in which it is located as imposed by this Section; and***

The new home would simply replace an existing single dwelling unit.

**6. *Is consistent with the Comprehensive Plan.***

A single-family home is consistent with the low-density residential land use designation within the Comprehensive Plan.

**Additional Conditions**

Per Section 850.11. Subd. 2: Additions to or replacement of single dwelling unit buildings with a first floor elevation of more than one (1) foot above the existing first floor elevation of the existing dwelling unit building. Such additions to or replacements of single dwelling unit buildings must meet one or more of the first three (3) conditions listed below, and always meet condition four (4).

- \*1. The first floor elevation may be increased to the extent necessary to elevate the lowest level of the dwelling to an elevation of two (2) feet above the 100-year flood elevation, as established by the Federal Emergency Management Agency (FEMA), or the City's Comprehensive Water Resource Management Plan; or**
- \*2. The first floor elevation may be increased to the extent necessary to reasonably protect the dwelling from ground water intrusion. Existing and potential ground water elevations shall be determined in accordance with accepted hydrologic and hydraulic engineering practices. Determinations shall be undertaken by a professional civil engineer licensed under Minnesota Statutes Chapter 326 or a hydrologist certified by the American Institute of Hydrology. Studies, analyses and computations shall be submitted in sufficient detail to allow thorough review and approval; or**
- \*3. The first floor elevation may be increased to the extent necessary to allow the new building to meet State Building Code, City of Edina Code, or other statutory requirements; and**

4. An increase in first floor elevation will only be permitted if the new structure or addition fits the character of the neighborhood in height, mass and scale.

**\*Variance – From the first three additional conditions required for a Conditional Use Permit to allow the first floor elevation of a new single dwelling unit with a first floor higher than 1-foot above the existing home on site as per Section 850.11, Subd. 2. of the city’s zoning ordinance.**

None of the top three criteria above apply to the proposed new home. The proposed home is not in the flood zone, does not need the first floor to be elevated to the extent necessary to reasonably protect it from ground water intrusion and will meet State Building Code. The proposed home requires a variance from the first three criteria of additional conditions for a Conditional Use Permit to allow a new first floor elevation to exceed one foot above the existing dwelling unit. The applicants are asking for a variance from the first three criteria to raise the new first floor. The proposal would conform to the fourth criteria: that the new structure will fit the character of the neighborhood in height, mass and scale. Homes of similar size, height, mass and scale are currently located within the neighborhood. Adjacent homes are over 150 feet away from the proposed home.

## **PRIMARY ISSUE & STAFF RECOMENDATION**

### **Primary Issue**

- **Is the CUP for a proposed new home with a first floor elevation 3.8 feet higher than the existing home reasonable for this site?**

Staff believes the proposal is reasonable:

1. The proposal meets the Conditional Use Permit findings of Section 850.04, Subd. E. as demonstrated on pages 3-4 of this report, however, the request would not meet required findings for additional conditions of Section 850.11. Subd. 2. for a Conditional Use Permit to allow the new first floor to exceed one foot. The Conditional Use Permit criteria to raise the first floor higher than 1-foot does not take into consideration where the existing main floor level is in a multi-level home. The first floor of the new home will match the existing main floor elevation.
2. The home has been designed to be low-profile and to respect the existing topography of the lot.

3. Conforming to the ordinance with the plan would require removal of much of the natural topography and require a re-grading of the property.
4. The proposed home is in character within this neighborhood. There are a variety of housing styles throughout the Indian Hills neighborhood. There have been a number of properties that have had homes re-built on them that are of similar size, mass and scale. The adjacent homes would be located over 150 feet from the proposed home. Lots in this area on Arrowhead Lake are generally very large, over 1 acre in size.

- **Are the proposed variances justified?**

Yes. Per the Zoning Ordinance, a variance should not be granted unless it is found that the enforcement of the ordinance would cause practical difficulties in complying with the zoning ordinance and that the use is reasonable. As demonstrated below, staff believes the proposal does meet the variance standards, when applying the three conditions:

Section 850.0.Subd., requires the following findings for approval of a variance:

**Minnesota Statutes and Edina Ordinances require that the following conditions must be satisfied affirmatively. The Proposed Variance will:**

- 1) *Relieve practical difficulties that prevent a reasonable use from complying with ordinance requirements.***

Reasonable use does not mean that the applicant must show the land cannot be put to any reasonable use without the variance. Rather, the applicant must show that there are practical difficulties in complying with the code and that the proposed use is reasonable. "Practical difficulties" may include functional and aesthetic concerns.

Staff believes the proposed variances are reasonable. The improvements would provide a reasonable use of a corner lot subjected to two front yard setbacks. The setbacks proposed from Arrowhead Lake include matching the existing nonconforming setback of the current house and the addition of an at-grade patio, both of which are elevated approximately 18 feet above the lake edge. Because of the angle of setback from the Lake, only a triangular portion of the terrace extends beyond the setback of the existing home.

The setbacks from Indian Hills Road are for minor point intrusions of the at-grade terrace and a subgrade garage. Both intrusions are small triangular over-laps into the setback. The home is appropriate in size and scale for the 49,079 square foot lot. The home is designed to be low profile and to fit within the existing topography. The neighbor to the east



has a “no build” lot between their lot and the new home limiting impact to the east.

The practical difficulties include the steep slopes on the lot, the irregular shape of the lot, and the required setbacks based on the adjacent home which has an 80-foot front yard setback, and the 75 foot setback required from Arrowhead Lake. This lot is subjected to much deeper setbacks than a typical single dwelling lot. Additionally, the first floor is defined by the entry level of a multi-level home instead of defined by the existing main floor of the current home.

The purpose behind the ordinance is to maintain an established front yard sight line and street scape and to maintain adequate distance from water bodies. The ordinance is meant to prevent a continual erosion of both of those setback standards. The front yard setback over-laps are minor point intrusions that do not affect adjacent properties. Duplicating the Lake setback of the existing home would not compromise the intent of the ordinance to provide spacing from a natural resource. The new home is low profile with a flat roof and would be elevated above the Lake.

**2) *There are circumstances that are unique to the property, not common to every similarly zoned property, and that are not self-created?***

Yes. The unique circumstances include the irregular shape of the lot, the large size of the lot and the restrictive setback from Arrowhead Lake and Indian Hills Road, pushing the new home farther back on the lot while also requiring a 75 foot setback from a water body. Additionally, the existing lot is held to a first floor elevation that is inconsistent with the existing home's main floor.

**3) *Will the variance alter the essential character of the neighborhood?***

No. The variance will allow the home to maintain the character of the site and lot by keeping the grades near existing conditions. The home design is low profile with 70% of the mass on the main level and 30% of the mass on the second floor. The proposed home would not change the streetscape along Indian Hills Road. The character of the neighborhood consists of lots with homes located on properties based on topography, orientation to the street, lot shape and lake views. The applicant is asking to preserve a setback pattern along the block and along the Lake edge with only minor overlaps.

**Staff Recommendation**

Recommend that the City Council approve the Conditional Use Permit with Variance and the setback Variances for property located at 6612 Indian Hills Road. The Conditional Use Permit allows the new home to have a first floor elevation 2.8 feet above the one foot first floor increase of the existing home.

Approval is based on the following findings:

1. The proposal meets the Conditional Use Permit conditions of the Zoning Ordinance Section 850.04, Subd E.
2. The proposal will keep the new first floor at approximately the same height as the existing main level of the home.
3. The proposed home is in character within this neighborhood. There are a variety of housing styles throughout the Indian Hills neighborhood. There have been a number of properties that have had homes re-built on them that are of similar or are larger in size, mass and scale.
4. The proposal would meet the required standards for a variance, because:
  - a. The improvements would provide a reasonable use of a corner lot subjected to two front yard setbacks. The proposed home would uphold the established front setback pattern already existing on the block with only minor point intrusions. The setbacks proposed from Arrowhead Lake include would be 6 inches farther back from the Lake edge than the existing home. Because of the angle of setback from the Lake, only a triangular portion of the terrace extends beyond the setback of the existing home.
  - b. The setbacks from Indian Hills Road are for minor point intrusions of the at-grade terrace and a subgrade garage. Both intrusions are small triangular over-laps into the setback.
  - c. The home is appropriate in size and scale for the 49,079 square foot lot. The home is designed to be low profile and to fit within the existing topography. The neighbor to the east has a "no build" lot between their lot and the new home limiting impact to the east.
  - d. The practical difficulties include the steep slopes on the lot, the irregular shape of the lot, and the required setbacks based on the adjacent home which has an 80-foot front yard setback, and the 75 foot setback required from Arrowhead Lake.
  - e. This lot is subjected to much deeper setbacks than a typical single dwelling lot.

- f. The first floor is defined by the entry level of a multi-level home instead of defined by the existing main floor of the current home.
- g. The purpose behind the ordinance is to maintain an established front yard sight line and street scape and to maintain adequate distance from water bodies. The ordinance is meant to prevent a continual erosion of both of those setback standards. The front yard setback over-laps are minor point intrusions that do not affect adjacent properties. Duplicating the Lake setback of the existing home would not compromise the intent of the ordinance to provide spacing from a natural resource. The new home is low profile with a flat roof and would be elevated above the Lake.

Approval is subject to the following conditions:

- 1. Subject to staff approval, the site must be developed and maintained in substantial conformance in terms of the house location, mass and over-all height with the following plans, unless modified by the conditions below:
  - Survey date stamped: April 24, 2013
  - Building plans/ elevations date stamped: April 24, 2013.
- 1. Submit a copy of the Nine Mile Creek Watershed District permit. The City may require revisions to the approved plans to meet the District's requirements.
- 2. Final grading and drainage plans are subject to review and approval of the City Engineer prior to issuance of a building permit.
- 3. The execution and recording of a Conservation Easement 41 feet upland from the Ordinary High Water level of Arrowhead Lake.

**Deadline for a City decision: June 7, 2013**



## CONDITIONAL USE PERMIT APPLICATION

CASE NUMBER 2013.010 DATE 4/8/2013  
FEE PAID Lpd

City of Edina Planning Department \* [www.cityofedina.com](http://www.cityofedina.com)  
4801 West Fiftieth Street \* Edina, MN 55424 \* (952) 826-0369 \* fax (952) 826-0389

FEE: \$800.00

### APPLICANT:

NAME: CHRISTIAN DEAN, AIA (Signature required on back page)

ADDRESS: 900 6TH AVENUE S.E. SUITE 215 PHONE: 612.382.2883

EMAIL: CDEAN@DEANARCH.COM

### PROPERTY OWNER:

NAME: MALCOLM LIEPKE (Signature required on back page)

ADDRESS: 2544 W. LAKE OF THE ISLES PKWY., MPLS. 55405 PHONE: 612.374.1458

LEGAL DESCRIPTION OF PROPERTY (written and electronic form):  
(SEE ADDITIONAL PAGES ATTACHED)

PROPERTY ADDRESS: 6612 INDIAN HILLS ROAD, EDINA

PRESENT ZONING: R-1 P.I.D.# 06-116-21-24-0006

### EXPLANATION OF REQUEST:

(SEE ADDITIONAL PAGES ATTACHED)

(Use reverse side or additional pages if necessary)

ARCHITECT: NAME: CHRISTIAN DEAN, AIA PHONE: 612.382.2883

EMAIL: CDEAN@DEANARCH.COM

SURVEYOR: NAME: DAVID PEMBERTON, P.L.S. PHONE: 952.476.6000

EMAIL: PEMBERTON@SATHRE.COM



**Detailed Requirements:** Unless waived by the Planning Department, you must complete all of the following items with this application. An incomplete application will not be accepted.

- X Application fee (not refundable). Make check payable to "City of Edina."
- X **Three (3) large** scaleable copies, one (1) electronic copy, and **thirty (30) 11X17** copies for Commission and Council members, of the following drawings or plans:
  - X Site plans with dimensions. The plan must include the location, dimensions and other pertinent information as to all proposed and existing buildings, structures and other improvements, streets, alleys, driveways, parking areas, loading areas and sidewalks. **Changes to site plans that are made after City Council approval, require an amended Conditional Use Permit. Amended Conditional Use Permits require a public hearing to be held by both the Planning Commission and City Council. The changes from the approved plan must be specifically listed by the builder or architect.**
  - X Floor plan showing location, arrangement and floor area of existing and proposed uses.
  - X Landscape plan and schedule in accordance with Subsection 850.10. **Changes to landscape plans that are made after City Council approval, require an amended Conditional Use Permit. Amended Conditional Use Permits require a public hearing to be held by both the Planning Commission and City Council. The changes from the approved plan must be specifically listed by the builder or architect.**
  - X A Building material sample board that shows the type of building materials that will be used on the building, including the selection of colors. **Changes to building materials or color that are made after City Council approval, require an amended Conditional Use Permit. Amended Conditional Use Permits require a public hearing to be held by both the Planning Commission and City Council. The changes from the approved plan must be specifically listed by the builder or architect.**
  - X Elevation drawings of all new buildings or additions and enlargements to existing buildings including a description of existing and proposed exterior building materials. **Changes to the elevation drawings that are made after City Council approval, require an amended Conditional Use Permit. Amended Conditional Use Permits require a public hearing to be held by both the Planning Commission and City Council. The changes from the approved plan must be specifically listed by the builder or architect.**
  - X Registered survey showing existing and proposed structures, lot lines, pertinent dimensions, lot acreages and wetland delineation per the Wetland Conservation Act and City standards.
  - X Grading plan with existing and proposed two-foot contours.
  - X Drainage plan, including location and size of pipes and water storage areas.

***All drawings must be to scale with pertinent dimensions shown. Fold jumbo plans in sets no larger than 8 ½" by 14" and with the print side facing out.***

  X   A written statement describing the intended use of the property and why the City should approve your request. Include a brief description of your company and any similar projects your company has done.

       sign plan for new or replacement signs: **two 8½" x 11"** copies

#### **CONDITIONAL USE PERMIT GUIDELINES AND APPLICATION INFORMATION**

The City of Edina Planning Department encourages healthy development within the city of Edina. Although this document is meant to serve as a guide for the application process for development through the Planning Department it is by no means comprehensive. The Planning Staff recommend that you schedule a meeting to answer any questions or to discuss issues that may accompany your project. It is much easier to tackle problems early on in the process. The office number for the Planning Staff is (952) 826-0465.

**Application:** Applications are submitted to the Planning Department. Offices are open Monday through Friday, 8 AM to 4:30 PM.\*

**Sign:** The petitioner shall erect, or cause to be erected, at least one sign per street frontage on land described in the petition. Refer to City Code/Zoning Ordinance for specifics.

**Meetings and Public Hearings:** Applications are first considered by the Planning Commission at their regular monthly meeting (Wednesday prior to the first Tuesday of each month.) The Commission holds a public hearing and adopts a recommendation which is forwarded to the City Council for consideration. The Council also conducts a public hearing typically two and one-half weeks after the Commission meeting, and either approves or disapproves the application. A 3/5<sup>th</sup> favorable vote is required for approval.

**Notice of Public Hearing:** Notice of the Planning Commission and City Council hearing is mailed to all property owners (of record at City Hall) that are located within 1000 feet of the site. Notice is mailed ten (10) days prior to the hearing. You are encouraged to contact adjacent or close owners and advise them of your proposal prior to the Planning Commission meeting.

#### **Requirements for Approval:**

The Zoning Ordinance provides that a conditional use permit shall not be issued unless the use:

- Will promote and enhance the general public welfare and will not be detrimental to or endanger the public health, safety, morals and general welfare;
- Will not cause undue traffic hazards, congestion, or parking shortages;
- Will not be injurious to the use and enjoyment, or decrease the value, of other property in the vicinity, and will not be a nuisance;
- Will not impede the normal and orderly development and improvement of other property in the vicinity
- Will not create an excessive burden on parks, streets and other public facilities
- Conforms to the applicable restrictions and special conditions of the district in which it is located as imposed by the ordinance
- Is consistent with the Comprehensive Plan.

\*Application deadline dates are 31 days prior to the Planning Commission meeting or at the discretion of the City Planner.

**Staff Report:** Staff prepares a report and recommendation and sends it along with the application materials to the Commission in advance of the meeting. All plans, emails and written information are public information, which may be used in the staff report and distributed to the public.

**Conditions and Restrictions:** The Council may impose conditions and restrictions in connection with the Conditional Use Permit to protect the public interest.

**Legal Fee:** It is the policy of the City to charge applicants for the actual cost billed by our attorneys for all legal work associated with the application. An itemized bill will be provided which is due and payable within thirty (30) days.

**Initiation of a Traffic Study:\***

Generally, the following typical development and zoning applications are intended to define the need for traffic studies to be considered by the Transportation Commission.

- A. Development approvals where an increase in trip generation is anticipated:
  - 1. Development where units are needed
  - 2. Development consisting of complete demolition/redevelopment
  - 3. Development of a site (where increasing floor space by more than 10%)
- B. Development or redevelopment is proposed in an area in which there has been a previous identification of a traffic problem, including but not limited to congestion or safety issues.

In cases where certain applications are received that do not necessitate a traffic study, staff will provide a summary to the Transportation Commission of such.

\*please contact the Engineering Department at 952-826-0371 for further information.

**APPLICANT'S STATEMENT**

This application should be processed in my name, and I am the party whom the City should contact about this application. By signing this application, I certify that all fees, charges, utility bills, taxes, special assessments and other debts or obligations due to the City by me or for this property have been paid. I further certify that I am in compliance with all ordinance requirements and conditions regarding other City approvals that have been granted to me for any matter.

I have completed all of the applicable filing requirements and, to the best of my knowledge, the documents and information I have submitted are true and correct.



03/27/2013

---


Applicant's Signature

Date

**OWNER'S STATEMENT**

I am the fee title owner of the above described property, and I agree to this application.

(If a corporation or partnership is the fee title holder, attach a resolution authorizing this application on behalf of the board of directors or partnership.)



3/28/2013

Owner's Signature

Michelle Neuman-Kupke

3/28/2013

Date

**Note. Both signatures are required (if the owner is different than the applicant) before we can process the application, otherwise it is considered incomplete.**

RECEIVED  
MAR 09 2013





## VARIANCE APPLICATION

CASE NUMBER

DATE

FEE PAID

City of Edina Planning Department \* [www.cityofedina.com](http://www.cityofedina.com)  
4801 West Fiftieth Street \* Edina, MN 55424 \* (952) 826-0369 \* fax (952) 826-0389

FEE: RES - \$350.00 NON-RES - \$600.00

### APPLICANT:

NAME: CHRISTIAN DEAN, AIA (Signature required on back page)  
ADDRESS: 900 6TH AVENUE S.E. SUITE 215 PHONE: 612.382.2883  
EMAIL: CDEAN@DEANARCH.COM

### PROPERTY OWNER:

NAME: MALCOLM LIEPKE (Signature required on back page)  
ADDRESS: 2544 W. LAKE OF THE ISLES PKWY., MPLS. 55405 PHONE: 612.374.1458

LEGAL DESCRIPTION OF PROPERTY (written and electronic form):  
\_\_ (SEE ADDITIONAL PAGES ATTACHED)

\*\*You must provide a full legal description. If more space is needed, please use a separate sheet.

Note: The County may not accept the resolution approving your project if the legal description does not match their records. This may delay your project.

PROPERTY ADDRESS: 6612 INDIAN HILLS ROAD, EDINA

PRESENT ZONING: R-1 P.I.D.# 06-116-21-24-0006

### EXPLANATION OF REQUEST:

(SEE ADDITIONAL PAGES ATTACHED)

(Use reverse side or additional pages if necessary)

ARCHITECT: NAME: CHRISTIAN DEAN, AIA PHONE: 612.382.2883  
EMAIL: CDEAN@DEANARCH.COM

SURVEYOR: NAME: DAVID PEMBERTON, P.L.S. PHONE: 952.476.6000  
EMAIL: PEMBERTON@SATHRE.COM

RECEIVED  
MAR 09 2013  
CITY OF EDINA

Minnesota Statutes and Edina Ordinances require that the following conditions must be satisfied affirmatively. Please fully explain your answers using additional sheets of paper as necessary.

The Proposed Variance will:

YES

NO

Relieve practical difficulties in complying with the zoning ordinance and that the use is reasonable

☒☐

Correct extraordinary circumstances applicable to this property but not applicable to other property in the vicinity or zoning district

☒☐

Be in harmony with the general purposes and intent of the zoning ordinance

☒☐

Not alter the essential Character of a neighborhood

☒☐

PLANNING DEPARTMENT  
MAR 09 2013

**Detailed Application Requirements:** Unless waived by the Planning Department, you must complete all of the following items with this application. An incomplete application will not be accepted.

- X Completed and signed application form.
- X Application fee (not refundable). Make check payable to "City of Edina."
- X One (1) Copy of drawings to scale.
- X Eleven (11) 11x17 copies of drawings, including elevations and survey, photographs and other information to explain and support the application.
- X A current survey is required. Please refer to "Exhibit A."
- X Variance requests require scale drawings to explain and document the proposal. The drawings are not required to be prepared by a professional, but must be neat, accurate and drawn to an acceptable scale. The drawings may vary with the proposal, but should include a site plan, floor plans and elevations of the sides of the building which are affected by the variance.

#### **VARIANCE GUIDELINES AND APPLICATION INFORMATION**

The City of Edina Planning Department encourages healthy development within the city of Edina. Although this document is meant to serve as a guide for the application process for development through the Planning Department it is by no means comprehensive. The Planning Staff recommend that you schedule a meeting to answer any questions or to discuss issues that may accompany your project. It is much easier to tackle problems early on in the process. The office number for the Planning Staff is (952) 826-0465.

#### **Variance Information**

The Edina Planning Commission has been established to consider exceptions (variances) from the Land Use, Platting and Zoning Ordinance (Number 850), the Antenna Ordinance (Number 815), the Sign Ordinance (Number 460) and the Parking and Storage of Vehicles and Equipment Ordinance (Number 1046).

The variance procedure is a "safety valve" to handle the unusual circumstances that could not be anticipated by these ordinances. The Commission is charged to only grant a petition for a variance if it finds:

1. That strict enforcement of the ordinance would cause practical difficulties because of circumstances unique to the petitioner's property
2. That the granting of the variance is in keeping with the spirit and intent of the ordinance.
3. Would not alter the essential character of the neighborhood.

"Practical Difficulties" means that:

1. The property in question cannot put to a reasonable use as allowed by the ordinance
2. The plight of the petitioner is due to circumstances unique to his/her property which were not created by the petitioner
3. The variance, if granted, will not alter the essential character of the property or its surroundings.

**\*\*Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of the ordinance.**

**Application:** Applications are submitted to the Planning Department. Offices are open Monday through Friday, 8 AM to 4:30 PM.

**Deadlines for Applications:** Applications need to be submitted at least **fifteen days** before the meeting. This allows the City of Edina time to notify surrounding property owners of the date of the hearing and details of the variance. It is helpful to submit the application as soon as possible to secure an early hearing position.

**Notice of Public Hearing:** Notice is mailed to all property owners (of record at City Hall) that are located within 200 feet of the site. Notice is mailed ten (10) days prior to the hearing. You are encouraged to contact adjacent or close owners and advise them of your proposal prior to the notice of the hearing. You may wish to provide statements of "no objection to the variance" from the nearby property owners.

**Meetings and Public Hearings:** Meetings of the Planning Commission are scheduled on the first and third Wednesday of each month. The meetings are held at 7:00 pm in the Edina City Hall Council Chambers, 4801 West 50<sup>th</sup> Street. ***Each meeting is limited to five variance cases on a first come, first serve basis.*** Additional requests are delayed until subsequent meetings. Meetings are formal public hearings with a staff report, comments from the proponent and comments from the audience. It is important the owner or a representative attend the meeting to answer questions.

**Staff Report:** After review of the drawings submitted and a visit to the site staff prepares a report. This report, along with any supporting drawings and materials, are sent to the Zoning Board in advance of the meetings. Board members may visit the site before the meeting. All plans, emails and written information are public information, and may be used in the staff report and distributed to the public.

**Board Membership:** The Planning Commission serves as the Zoning Board. Five members are required for a quorum.

**Decisions by the Planning Commission:** The Planning Commission may approve, deny or amend the variance request and establish conditions to ensure compliance or protect surrounding property owners. The Planning Commission generally makes a decision at the scheduled hearing. Occasionally, however, a continuance to another meeting may be necessary.

**Appeals:** Decisions of the Planning Commission are final unless appealed to the City Council in writing within 10 days. The proponents, any owner receiving notice of the hearing or the staff may appeal decisions. Appeals are rare and they can be time consuming because a new hearing is required before the full City Council. Appeals must be filed with the City Clerk.

**Legal Fee:** It is the policy of the City to charge applicants for the actual cost billed by our attorneys for all legal work associated with the application. An itemized bill will be provided which is due and payable within thirty (30) days.

**\*\* Filing an Approved Variance:** The applicant is required to file an approved variance resolution with the County. Documents necessary for filing will be provided by the Planning Department.



**APPLICANT'S STATEMENT**

This application should be processed in my name, and I am the party whom the City should contact about this application. By signing this application, I certify that all fees, charges, utility bills, taxes, special assessments and other debts or obligations due to the City by me or for this property have been paid. I further certify that I am in compliance with all ordinance requirements and conditions regarding other City approvals that have been granted to me for any matter.

I have completed all of the applicable filing requirements and, to the best of my knowledge, the documents and information I have submitted are true and correct.



03/27/2013

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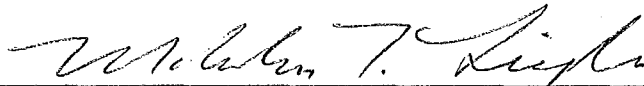
Applicant's Signature

Date

**OWNER'S STATEMENT**

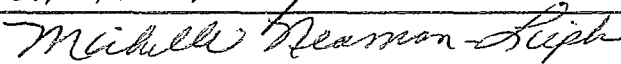
I am the fee title owner of the above described property, and I agree to this application.

(If a corporation or partnership is the fee title holder, attach a resolution authorizing this application on behalf of the board of directors or partnership.)



3/28/13

Owner's Signature

 3/28/13

Date

**Note. Both signatures are required (if the owner is different than the applicant) before we can process the application, otherwise it is considered incomplete.**

RECEIVED  
MAR 09 2013  
CITY CLERK

4.08.2013  
City Planning Staff  
City of Edina  
Planning Department  
4801 W. 50<sup>th</sup> Street, Room 300  
Minneapolis, MN 55424

Re: Variance Application – Application Appendix items

6612 Indian Hills Road Property Legal Description:

Lot 2, Block 1, INDIAN HILLS, and Lot 1, Block 1, INDIAN HILLS PETERSON ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota.



Christian Dean, AIA  
Architect of Record  
CITYDESKSTUDIO, Inc.  
612.382.2883

Appendix information:

Property Owner's contact info.  
Malcolm Liepke  
2544 W. Lake of the Isles Pkwy.  
Minneapolis, MN 55405

RECEIVED  
MAR 09 2013  
CITY

4.08.2013  
City Planning Staff  
City of Edina  
Planning Department  
4801 W. 50<sup>th</sup> Street, Room 300  
Minneapolis, MN 55424

Re: Conditional Use Application – Statement by applicant

Dear Planning Staff

On behalf of my client, Malcolm Liepke, the property owner of 6612 and 6608 Indian Hills Road, I would like to provide your office with information regarding our request to seek a Conditional Use Permit for the property at that the 6612 address.


We are requesting that the proposed first floor of the new residence be located at 904' or more than one foot higher than the existing entry of the split-level home existing on the site which is located a 900.2' for reference. The existing home is made up of a series of additions that resulted in a 'split-level' condition. The existing entry is below much of the property's buildable yard area. Much of the buildable site is above 901'. Conforming to the ordinances' allowance to establish the new first floor elevation a maximum of 1'-0" above an existing 'split-level' entry would require removing much of the natural topography of the site and force an atypical floor to grade relationship. The proposed design keeps the first floor elevation more consistent with natural grade occurring at the primary buildable site areas. The proposed design is a predominately single-story walkout (70% of the overall length of the house is a single-story with a walk-out) with a second floor proposed deeper into the site occupying the remaining 30% of the overall house length.

The existing house main level is located at 904.3' which is higher than the new proposed first floor elevation of 904'. The proposed design and massing is an improvement to the existing condition relative to this ordinance.

Complying with this ordinance would drastically alter the natural topography and make the house and force a less conventional siting within the landscape.

Thank you for considering this request. If you require additional information, we would be happy to provide it.

Sincerely,



Christian Dean, AIA  
Architect of Record  
CITYDESKSTUDIO, Inc.  
612.382.2883

Appendix information:

Property Owner's contact info.  
Malcolm Liepke  
2544 W. Lake of the Isles Pkwy.  
Minneapolis, MN 55405

PLANNING  
MAR 09 2013  
CITY OF EDINA

4.8.2013  
City Planning Staff  
City of Edina  
Planning Department  
4801 W. 50<sup>th</sup> Street, Room 300  
Minneapolis, MN 55424

PLANNING DEPARTMENT  
MAR 09 2013  
CITY OF EDINA

Re: Variance Application – Response to variance findings

Dear Planning Staff

On behalf of my client, Malcolm Liepke, the property owner of 6612 and 6608 Indian Hills Road, I would like to provide your office with information regarding our request to seek zoning variances for the property at that address.

**\*\*Additional consideration for all Variance Findings:** The adjacent vacant lot at 6608 Indian Hills Road will never be developed (as per the 'Restrictive Covenant' as described on the attached 'Purchase Agreement') reducing the overall density and impact of the redevelopment of this property at 6612 Indian Hills Road as related to all requested variances and conditional uses requested.

In response to the required for findings for a variance request:

1. *The proposed variance will: Relieve practical difficulties in complying with the zoning ordinance and that the use is reasonable.*

a. Variance related to reducing the setback from Indian Hills Road from 80' to 75.3':

The 2 portions of the proposed structure extending within the Indian Hills Road setback by approximately 5' are an at grade terrace off the south-east corner and part of an attached garage that is partially subgrade. The overall design goal of this proposed house is to be a low, horizontal structure hugging the rolling landscape of this property and at times embedded into the landscape. This strategy of being low and horizontal has pushed the 'edges and corners' of the structure into setbacks however not full walls and facades. We feel the proposed structure even with the small encroachments is more in keeping with the zoning ordinance than potentially larger structures fully setback from the required yards.

b. Variance related reducing the setback from Arrowhead Lake from 75' to 62.3':

The proposed new structure is located further from the lake than the furthest lakeside position of the existing structure. Only the new proposed exterior terraces are located further towards the lake than the existing structure. Considering that the proposed structure is set further back from the lake than the existing structure and that the house is predominately a relatively low slung single story structure (70% of the overall massing is a single-story with a walk-out) high above the lake, the overall exposure of this structure from the lake and other homes on the lake will be moderate. The low level terraces are visually less impactful outdoor spaces than raised deck extending toward the lake from the proposed structure. The homeowner will make every effort to provide permeable paving at the terraces.

2. *The proposed variance will: Correct extraordinary circumstances applicable to this property but not applicable to other property in the vicinity or zoning district.*

a. Variance related to reducing the setback from Indian Hills Road from 80' to 75.3':

b. Variance related reducing the setback from Arrowhead Lake from 75' to 62.3':

Unique to this property is the adjacent vacant lot at 6608 Indian Hills Road which will never be developed (as per the 'Restrictive Covenant' as described on the attached 'Purchase Agreement') reducing the overall density and impact of the redevelopment of this property at 6612 Indian Hills Road as related to all requested variances and conditional uses requested. This is unique to the property located in question at 6612 Indian Hills Road. The overall location of this property and unique topographic nature is unique to this property as well which shields much of the proposed structure from the public road.



3. *The proposed variance will: Be in harmony with the general purposes and intent of the zoning ordinance.*

- a. Variance related to reducing the setback from Indian Hills Road from 80' to 75.3':
- b. Variance related reducing the setback from Arrowhead Lake from 75' to 62.3':

The overall design goal of this architect designed house is to be a low, horizontal structure hugging the rolling landscape of this property and at times embedded into the landscape. This strategy of being low and horizontal has pushed the 'edges and corners' of the structure into setbacks however not full walls and facades. We feel the proposed structure even with the small encroachments is more in keeping with the goals of the zoning ordinance than potentially larger structures fully setback from the required yards.

4. *The proposed variance will: Not alter the essential character of the neighborhood.*

- a. Variance related to reducing the setback from Indian Hills Road from 80' to 75.3':
- b. Variance related reducing the setback from Arrowhead Lake from 75' to 62.3':

The overall design goal of this architect designed house is to be a low, horizontal structure hugging the rolling landscape of this property and at times embedded into the landscape. This strategy of being low and horizontal has pushed the 'edges and corners' of the structure into setbacks however not full walls and facades. We feel the proposed structure even with the small encroachments is more in keeping with the goals of the zoning ordinance than potentially larger structures fully setback from the required yards and would be a good model for the development of a larger sized home in the neighborhood. A low, predominately horizontal oriented massing with higher portions stepped back from the street with a relatively fragmented plan is a good model for a larger scale house design.

Thank you for considering this request. If you require additional information, we would be happy to provide it.

Sincerely,



Christian Dean, AIA  
Architect of Record  
CITYDESKSTUDIO, Inc.  
612.382.2883

Appendix information:

Property Owner's contact info.  
Malcolm Liepke  
2544 W. Lake of the Isles Pkwy.  
Minneapolis, MN 55405

RECEIVED  
MAR 09 2013  
CITY OF MINNAPOLIS

4.8.2013  
City Planning Staff  
City of Edina  
Planning Department  
4801 W. 50<sup>th</sup> Street, Room 300  
Minneapolis, MN 55424

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Appendix information:

Property Owner's contact info.  
Malcolm Liepke  
2544 W. Lake of the Isles Pkwy.  
Minneapolis, MN 55405

RECEIVED  
MAR 09 2013

4.08.2013  
City Planning Staff  
City of Edina  
Planning Department  
4801 W. 50<sup>th</sup> Street, Room 300  
Minneapolis, MN 55424

Re: Conditional Use Application – Statement by applicant

Dear Planning Staff

On behalf of my client, Malcolm Liepke, the property owner of 6612 and 6608 Indian Hills Road, I would like to provide your office with information regarding our request to seek a Conditional Use Permit for the property at that the 6612 address.

We are requesting that the proposed first floor of the new residence be located at 904' or more than one foot higher than the existing entry of the split-level home existing on the site which is located a 900.2' for reference. The existing home is made up of a series of additions that resulted in a 'split-level' condition. The existing entry is below much of the property's buildable yard area. Much of the buildable site is above 901'. Conforming to the ordinances' allowance to establish the new first floor elevation a maximum of 1'-0" above an existing 'split-level' entry would require removing much of the natural topography of the site and force an atypical floor to grade relationship. The proposed design keeps the first floor elevation more consistent with natural grade occurring at the primary buildable site areas. The proposed design is a predominately single-story walkout (70% of the overall length of the house is a single-story with a walk-out) with a second floor proposed deeper into the site occupying the remaining 30% of the overall house length.

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Complying with this ordinance would drastically alter the natural topography and make the house and force a less conventional siting within the landscape.

Thank you for considering this request. If you require additional information, we would be happy to provide it.

Sincerely,

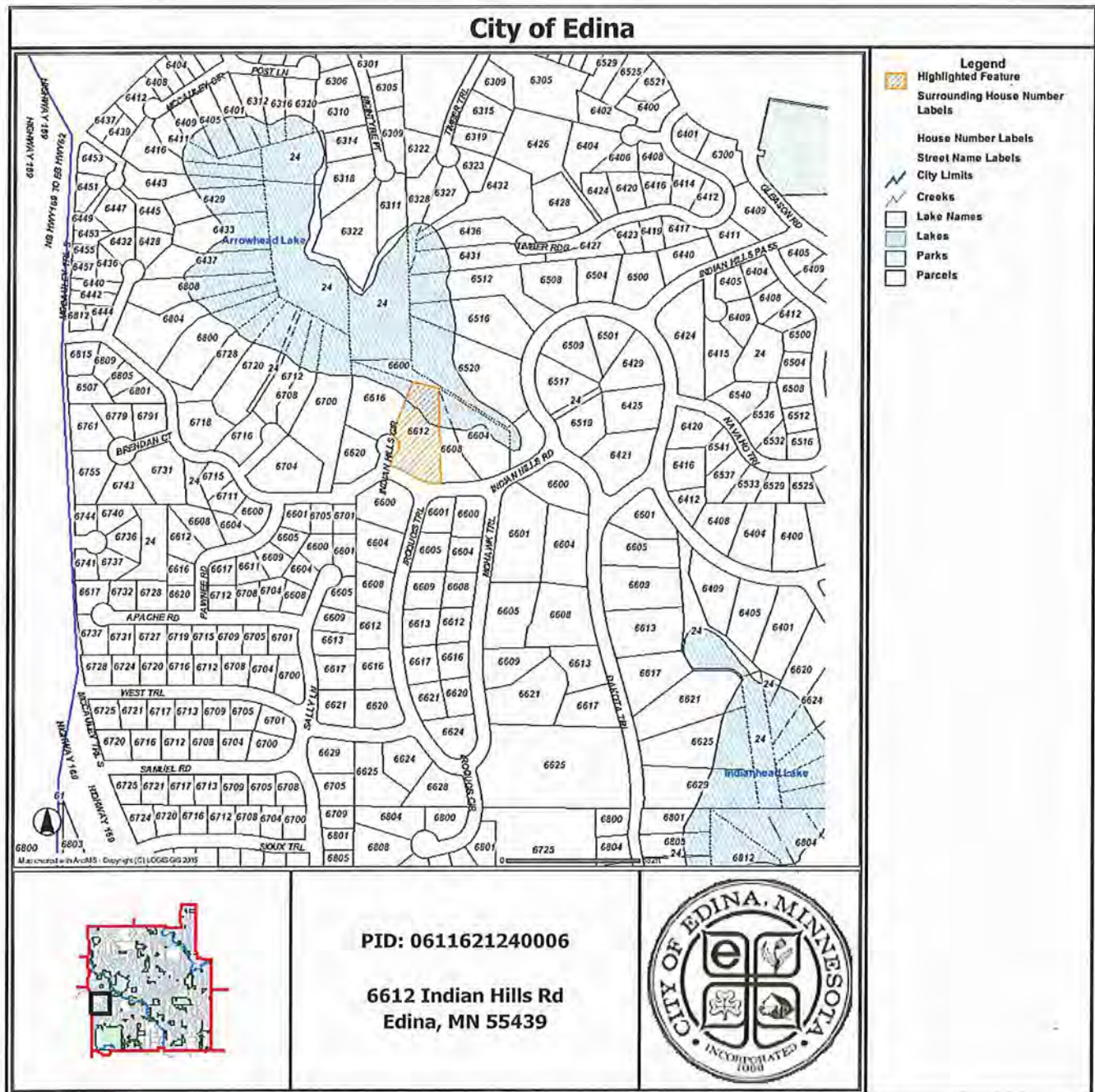


Christian Dean, AIA  
Architect of Record  
CITYDESKSTUDIO, Inc.  
612.382.2883

Appendix information:

Property Owner's contact info.  
Malcolm Liepke  
2544 W. Lake of the Isles Pkwy.  
Minneapolis, MN 55405

MAR 09 2013

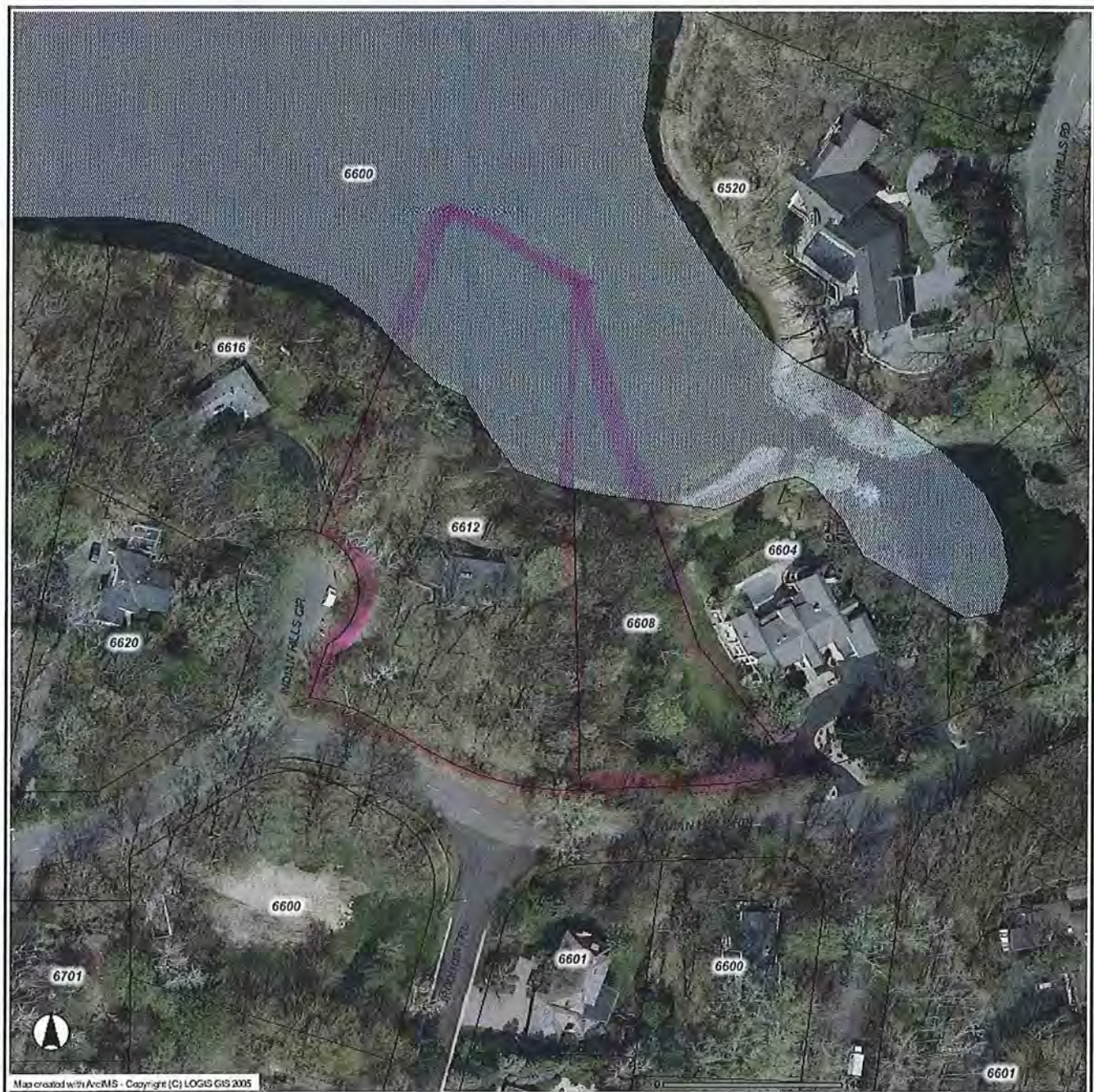


*side location*

Property

Assessing





6612 Indian Hills  
subject property  
6608 part of subject  
property - no-build lot

A.2





subject Home  
6612 Indian Hills  
Road

A.3





*Neighborhood to the  
East 6604 Indian Hills*

*A. H*





Neighbor to the west  
6616 Indian Hills  
date





Neighbor Across  
Cut-de-hue  
6620 Indian Hills  
Circle

A. G.





Neighbor across  
the street  
6600 Ingham Tr.

A.7





Neighborhood  
The Street At  
Cool Springs

A.B



LIEPKE RESIDENCE

EDINA, MN



A. 9



CONCEPTUAL ILLUSTRATION OF SOUTH FACADE OF PROPOSED HOUSE



CONCEPTUAL ILLUSTRATION OF NORTH FACADE OF PROPOSED HOUSE

DRAWING INDEX		
SHEET NO.	DESCRIPTION	SCALE
G1.0	COVER SHEET	
A1.0	SITE PLAN	1/4"=1'-0"
SURVEY	CERTIFICATE OF SURVEY	1"=15'-0"
A2.0	BASEMENT FLOOR PLAN	1/4"=1'-0"
A2.1	FIRST FLOOR PLAN	1/4"=1'-0"
A2.2	SECOND FLOOR PLAN	1/4"=1'-0"
A2.3	ROOF PLAN	1/4"=1'-0"
A3.0	NORTH AND SOUTH ELEVATIONS	1/4"=1'-0"
A3.1	EAST AND WEST ELEVATIONS	1/4"=1'-0"

**PROJECT**  
LIEPKE RESIDENCE  
6812 INDIAN HILLS ROAD  
EDINA, MN

**OWNER**  
SKIP LIEPKE  
304 W LANE OF THE OLES PRIFY  
MINNEAPOLIS, MN 55455-2328

**ARCHITECT**  
CITYDESKSTUDIO, INC.  
100 6TH AVENUE, SE  
SUITE 210  
MINNEAPOLIS, MN 55414  
612.372.2308 F  
612.326.4522 F  
www.citydeskstudio.com  
CONTACT: CHRISTIAN DEAN, RA

**ISSUES**

DESIGN REVIEW	12.21.12
CITY ZONING	
APPROVALS	03.12.13

**DATE:** 02.25.13  
**PROJECT NO.:** 2012.16  
**DRAWN BY:** CDND

**SITE PLAN**

**G1.0**

A.10





#### SITE ADDRESS

0412 Indian Hills Road, Edina, Minnesota

#### DESCRIPTION OF SUBJECT PROPERTY

Lot 2, Block 1, INDIAN HILLS, and Lot 1, Block 1, INDIAN HILLS (PETERSON ADDITION), according to the recorded plat thereof, Hennepin County, Minnesota.

#### NOTES

This survey does not purport to show all underground utilities. The source of information from plans and markings will be combined with observed evidence of utilities to develop a view of those underground utilities. However, including excavation, the exact location of underground features cannot be accurately, completely and reliably depicted. Where additional or more detailed information is required, the client is advised that excavation may be necessary.

The contractor shall determine the exact location of any and all existing utilities before commencing work. The contractor shall be fully responsible for any and all damages arising out of his failure to exactly locate and protect all existing utility facilities.

Consult GUYTON STATE ONE CALL at 651-454-6002 for precise locate locations of utilities prior to any excavation.

Area Information: Lot 1, Block 1 = 3,661 Sq. Ft. (Ordinary High Water)  
26,722 Sq. Ft. (Average Ordinary High Water)  
30,380 Sq. Ft. (1944)

Lot 2, Block 1 = 29,092 Sq. Ft. (Ordinary High Water)  
49,638 Sq. Ft. (Average Ordinary High Water)  
65,771 Sq. Ft. (1944)

#### Custom existing and subdata information:

Zoning: R-1

Building Setback: Front Yard - 30 feet (Average Building Setback)  
Rear Yard - 75 feet (Ordinary High Water Line)  
Side Yard - 10 feet

\*Zoning and Setback information provided by the Planning Department of the City of Edina.

Survey coordinates and bearing: Assumed

No modifications to this survey or sketch may be performed by any person other than the surveyor signing this certificate or persons under his direct supervision. No reproduction or modification of this survey is permitted.

#### Underlying Information: 1 of 1, Block 2

Structure - 3,396 Sq. Ft.  
Driveway - 1,304 Sq. Ft.  
Paved Driveway - 1,547 Sq. Ft.  
Yard - 12,381 Sq. Ft. (48,771 Sq. Ft. = 17.6% (Total Lot Area))  
Yard - 12,391 Sq. Ft. (49,579 Sq. Ft. = 25.0% (Area above Ordinary High Water Line))

#### PROPOSED ELEVATIONS

PROPOSED GARAGE FLOOR ELEVATION = 893.2  
PROPOSED BASEMENT FLOOR ELEVATION = 904.8

#### LEGEND

WET A-1 Denotes Wetland (Minnesota) Tag Identifier  
X Denotes Existing Center  
CSD Denotes Proposed Center  
F Denotes Fenced Monument - As Drawn  
D Denotes Fenced Cent - Iron - Monument  
D Denotes 1/2" by 1/4" Iron Pipe Set and Marked by License No. 40144

FIELD CREW	NO.	BY	DATE	REVISIONS
1	1	OSP	08/13/13	HANDOVER AREA
DRAWN BY				
CHECKED BY				
DATE				

USE (INCLUDING COPYING, DISTRIBUTION, AND/OR CONVEYANCE OF INFORMATION OF THIS PRODUCT IS STRICTLY PROHIBITED WITHOUT SATHRE-BERGQUIST, INC.'S EXPRESS WRITTEN AUTHORIZATION. USE WITHOUT SAID AUTHORIZATION CONSTITUTES AN ILLEGITIMATE USE AND SHALL THEREBY ROBUSTLY SATHRE-BERGQUIST, INC. OF ALL RESPONSIBILITY. SATHRE-BERGQUIST, INC. RESERVES THE RIGHT TO HOLD ANY ILLEGITIMATE USER OR PARTY LEGALLY RESPONSIBLE FOR DAMAGES OR LOSSES RESULTING FROM ILLEGITIMATE USE.

I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.  
Dated this 13th day of March, 2013.  
David B. Peterson, Professional Land Surveyor  
Minnesota License No. 40144



**SATHRE-BERGQUIST, INC.**  
130 SOUTH BROADWAY WAYZATA, MN 55391 (952) 476-0000

TWP 115 N, RGE 21 E, SEC 68  
HENNEPIN COUNTY  
BLOCK XXXPAGE XXX  
**EDINA, MINNESOTA**

CERTIFICATE OF SURVEY		FILE NO.
SKIP LEIPKE		1
		1







CONCEPTUAL ILLUSTRATION OF SOUTH FACADE OF PROPOSED HOUSE



CONCEPTUAL ILLUSTRATION OF NORTH FACADE OF PROPOSED HOUSE

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*Handwritten signature*  
 PLANNING DEPARTMENT  
 MAR 09 2013  
 CITY OF EDINA

**PROJECT**  
 LIEPKE RESIDENCE  
 8913 PONDHILL ROAD  
 EDINA, MN

**OWNER**  
 SKIP LIEPKE  
 2544 W LAKE OF THE ISLES PKWY  
 MINNEAPOLIS, MN 55455-2335

**ARCHITECT**  
 CITYDESKSTUDIO, INC.  
 108 6TH AVENUE SE  
 SUITE 210  
 MINNEAPOLIS, MN 55414  
 612.872.2398 F  
 612.328.4325 F  
 www.citydeskstudio.com  
 CONTACT: CHRISTIAN DEAN, AIA

ISSUES	
DESIGN REVIEW	12.21.12
CITY ZONING APPLICATIONS	03.12.13

DATE: 02.25.13  
 PROJECT NO.: 2012.10  
 DRAWN BY: CO/ND

SITE PLAN

G1.0

A.13

LIEPKE RESIDENCE  
6812 INDIAN HILLS ROAD  
EDINA, MN

**SKIP LIEPKE**  
2544 W LAKE OF THE ISLES PKWY  
MINNEAPOLIS, MN 55405-2338

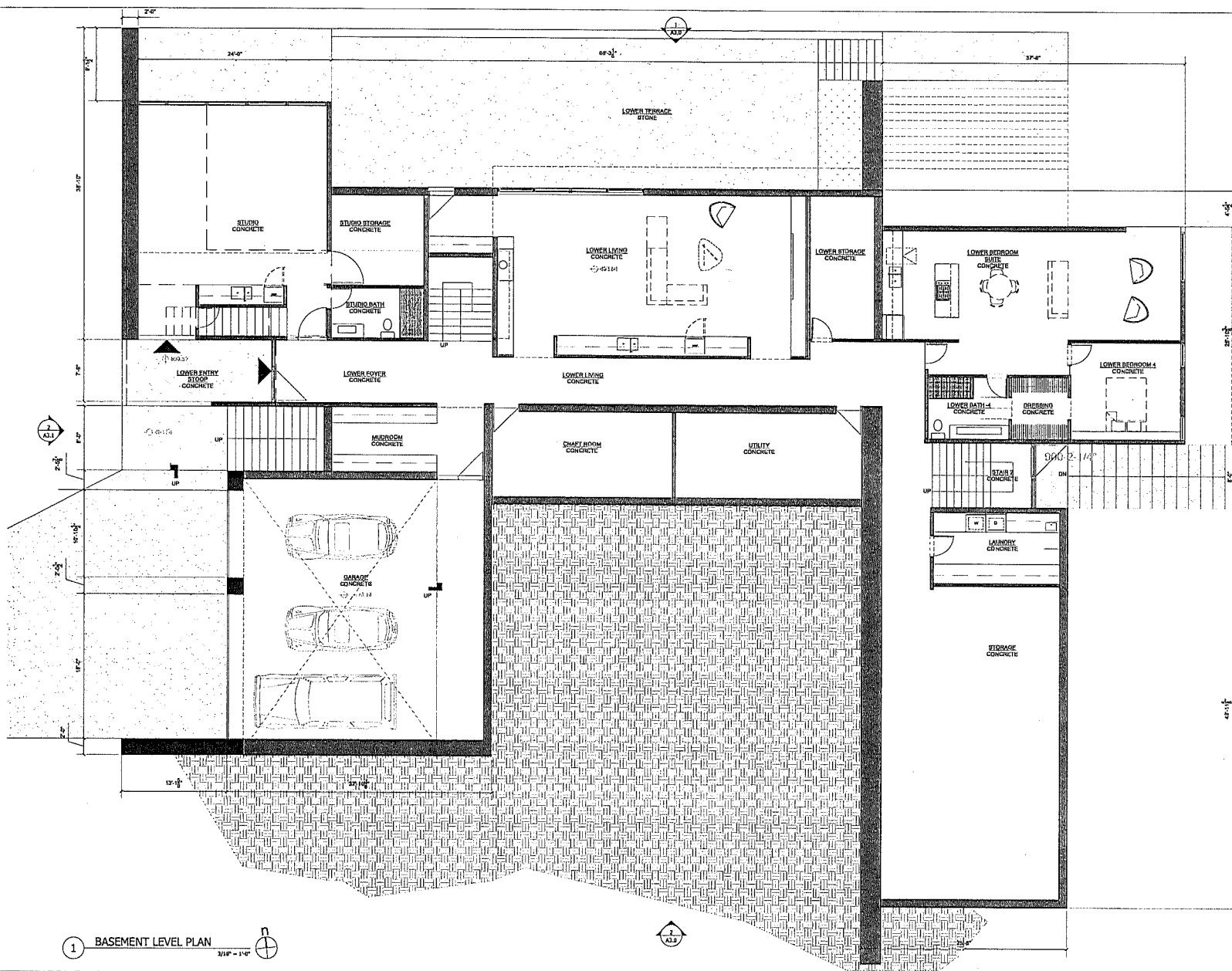
**CITYDESKSTUDIO, INC.**  
900 6TH AVENUE SE  
SUITE 216  
MINNEAPOLIS, MN 55414  
612.872.2306 f  
612.339.4935 f  
[www.citydeskstudio.com](http://www.citydeskstudio.com)

**CONTACT: CHRISTIAN DEAN, AIA**

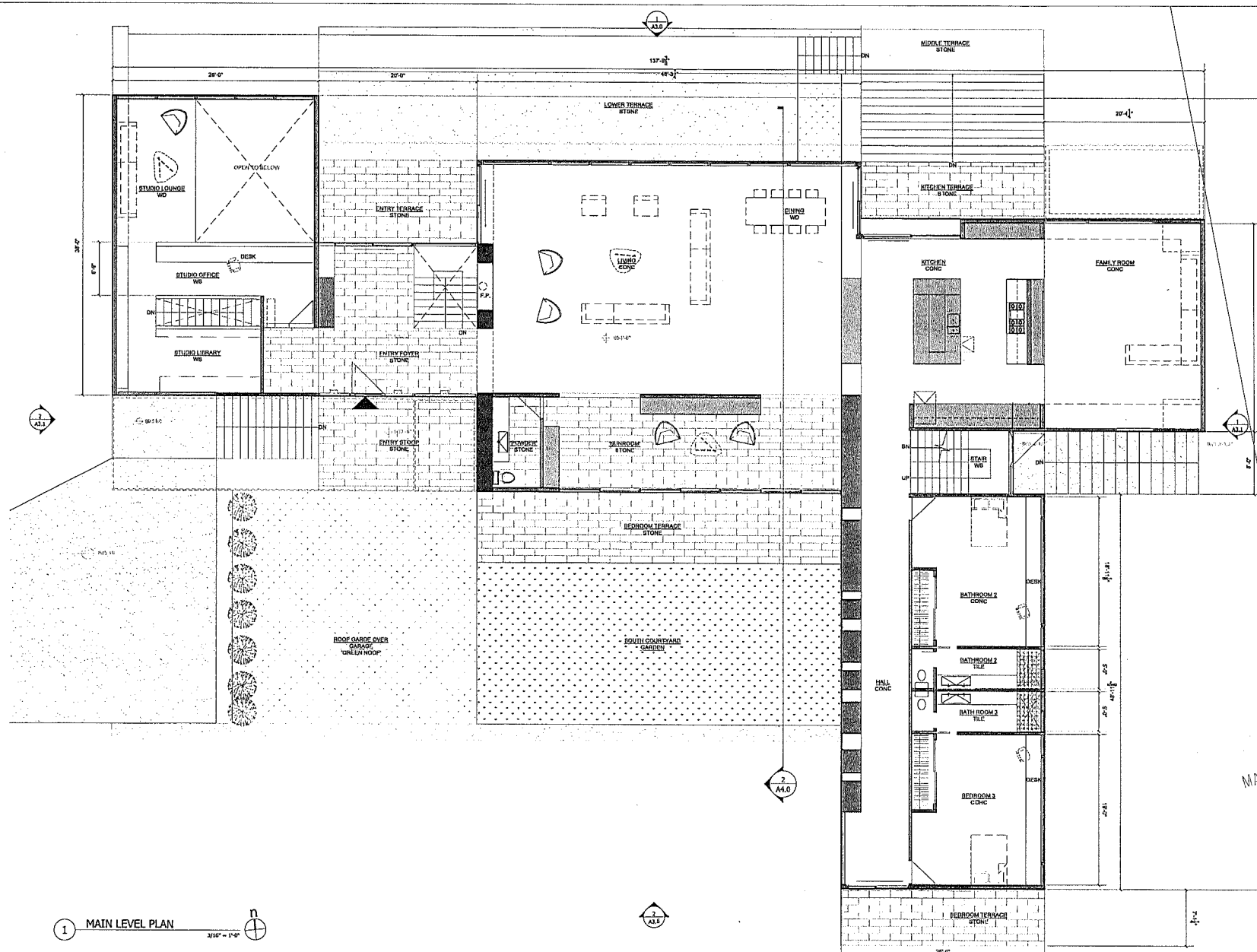
DESIGN REVIEW	12.21.12
CITY ZONING	
APPLICATIONS	03.12.13

PROJECT NO.: 2012.18  
DRAWN BY: CD/ND

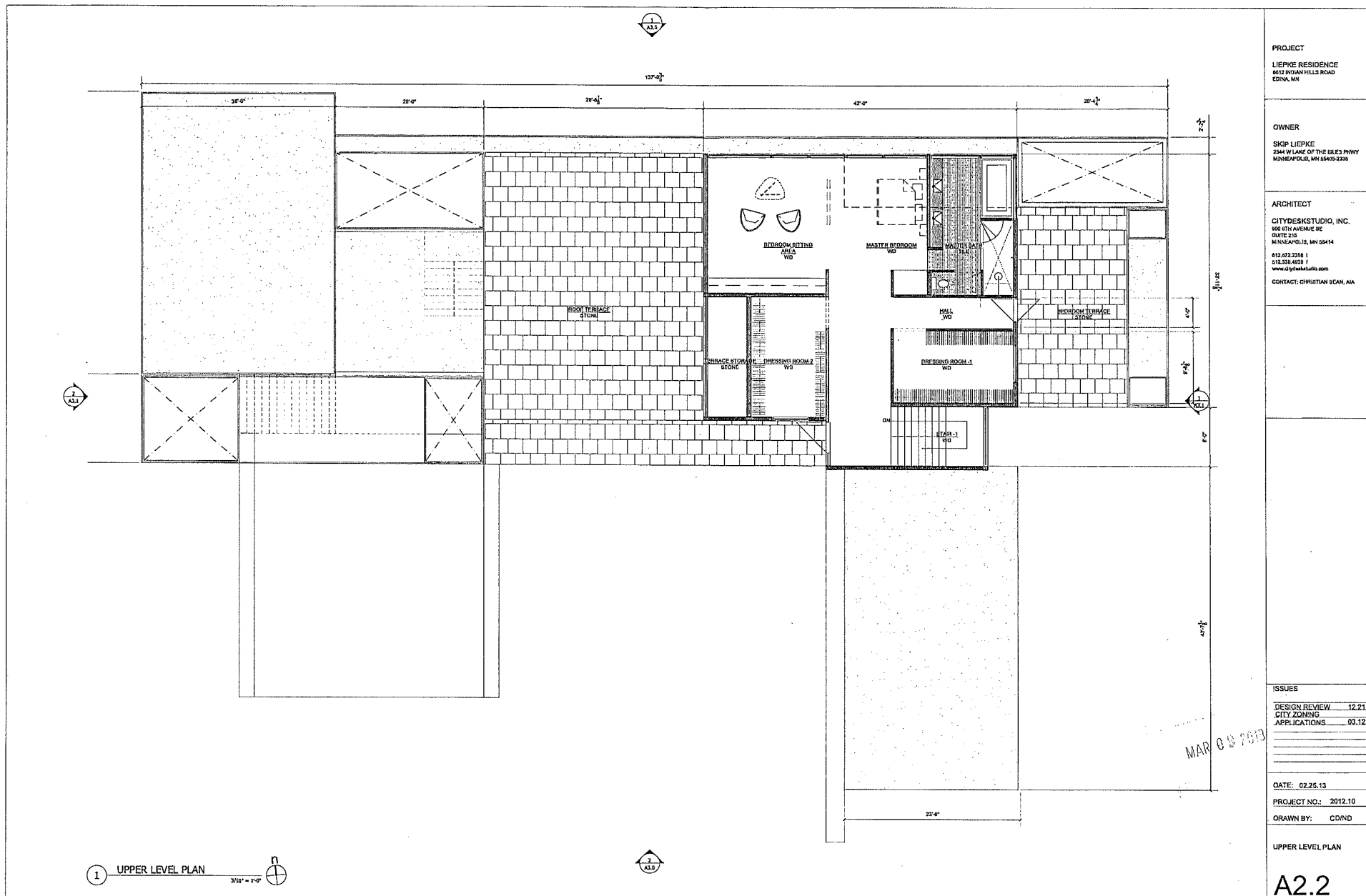
A2.0



A.15



A.16



PROJECT

LIEPKE RESIDENCE  
8612 INDIAN HILLS ROAD  
EDINA, MN

OWNER

SKIP LIEPKE  
2544 W LAKE OF THE ISLES DRIVE  
MINNEAPOLIS, MN 55409-2336

ARCHITECT

CITYDESKSTUDIO, INC.  
900 6TH AVENUE SE  
SUITE 215  
MINNEAPOLIS, MN 55414  
612.672.2350 F  
612.338.4030 F  
www.citydeskstudio.com  
CONTACT: CHRISTIAN DEAN, AIA

ISSUES

DESIGN REVIEW 12.21.12  
CITY ZONING  
APPLICATIONS 03.12.13

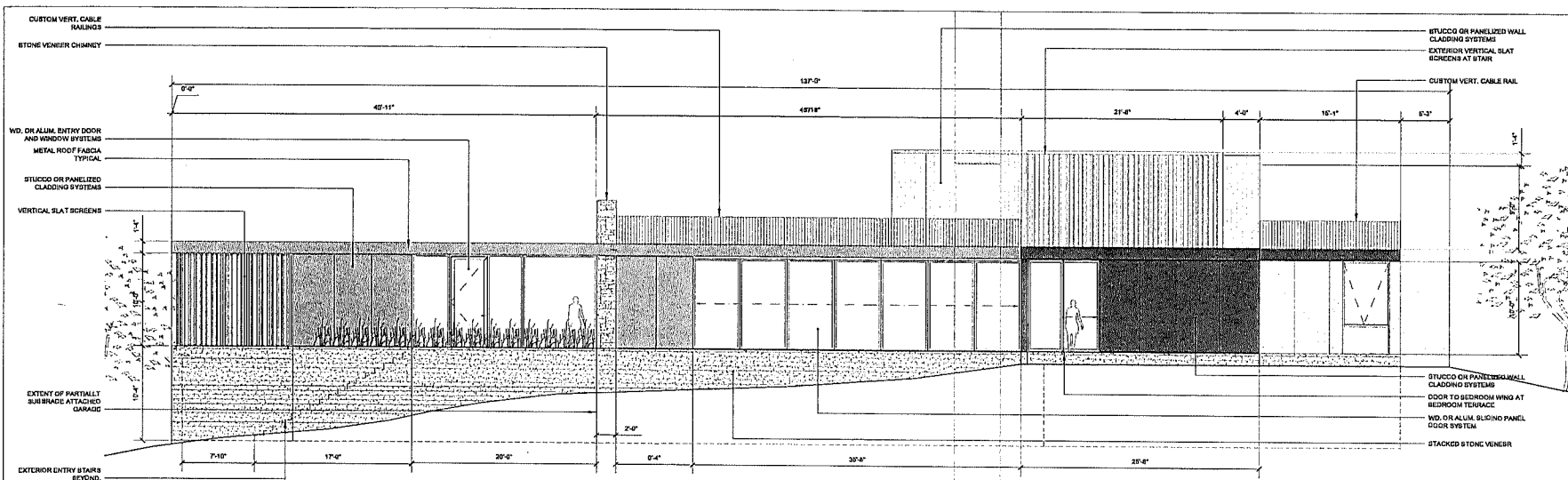
DATE: 02.25.13

PROJECT NO.: 2012.10

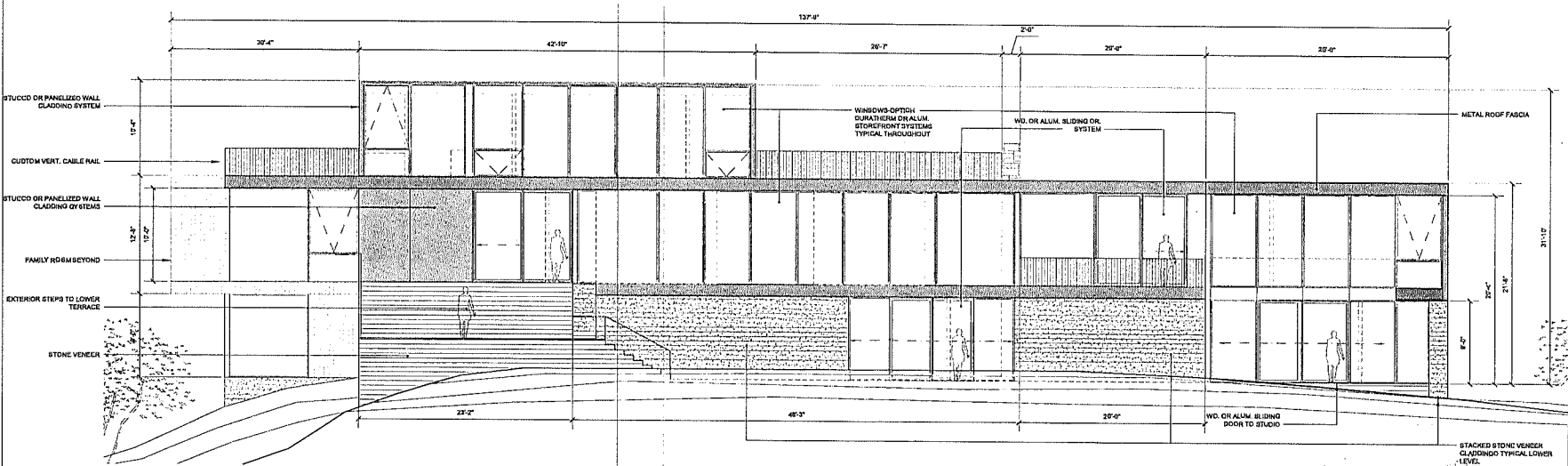
DRAWN BY: CD/ND

UPPER LEVEL PLAN





1 SOUTH ELEVATION  
3/16" = 1'-0"



2 NORTH ELEVATION  
3/16" = 1'-0"

PROJECT  
LIEPKE RESIDENCE  
3613 INDIAN HILLS ROAD  
EDINA, MN

OWNER  
SKIP LIEPKE  
2344 WILKINSON DRIVE  
MINNEAPOLIS, MN 55405-2336

ARCHITECT  
CITYDESKSTUDIO, INC.  
800 5TH AVENUE SE  
SUITE 210  
MINNEAPOLIS, MN 55414  
612.872.2386 F  
612.335.4030 T  
www.citydeskstudio.com  
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CITY ZONING	
APPLICATIONS	03.12.13

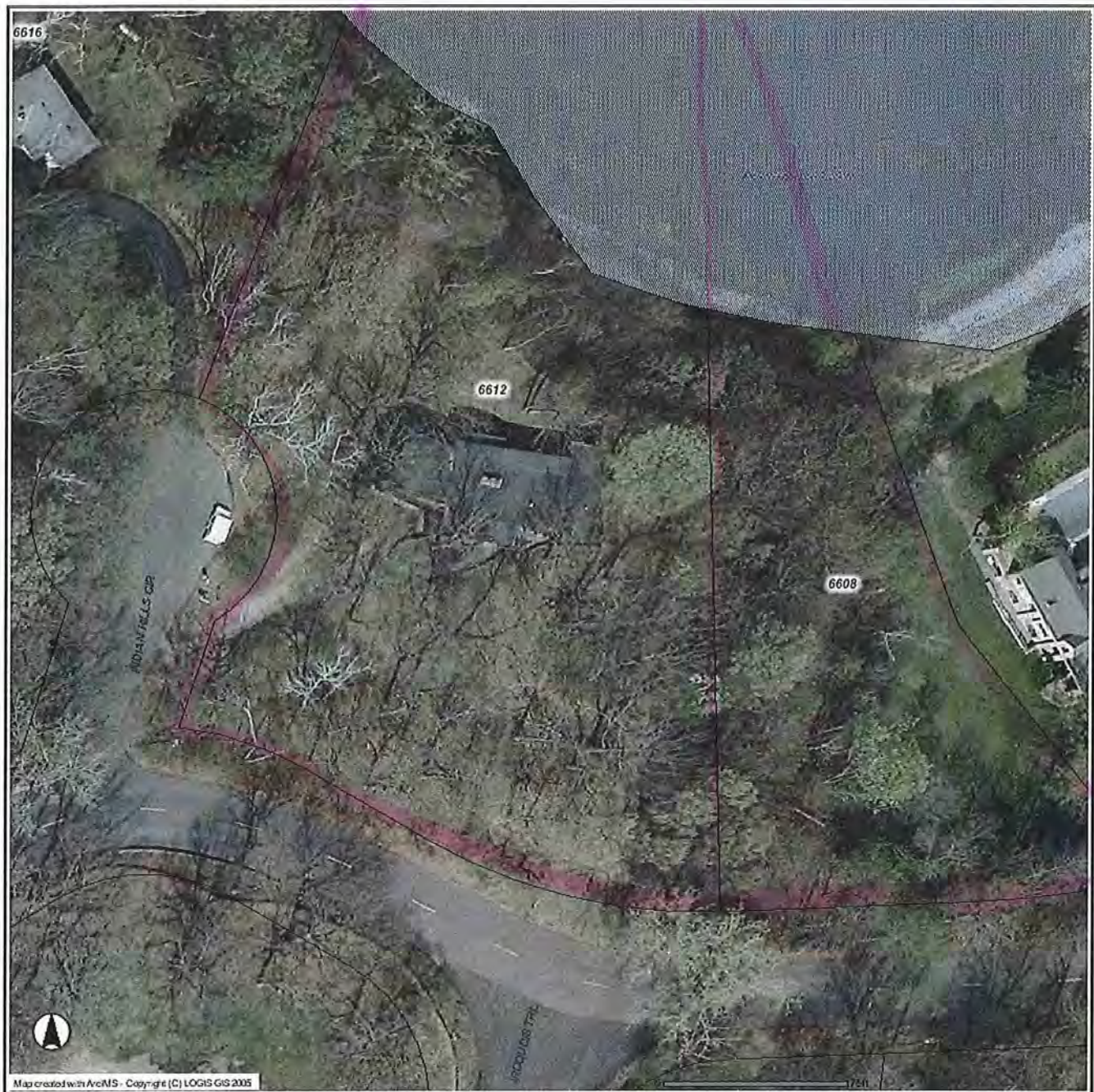
DATE: 02.25.13  
PROJECT NO.: 2012.18  
DRAWN BY: CD/ND

ELEVATIONS

A3.0







Lots 6612 + 6608  
owned by applicant  
6608 has a "No Build"  
restriction + conservation  
easement

A.19

**PURCHASE AGREEMENT  
FOR VACANT LOT**

THIS PURCHASE AGREEMENT ("Purchase Agreement" or "Agreement") is made this 3<sup>rd</sup> day of November, 2002, by and between Mark W. Peterson and Barbara A. Jerich of 6604 Indian Hills Road, Edina, Minnesota (collectively referred to as "Seller"), and Orrin M. and Marilyn Haugen of 6612 Indian Hills Road, , Edina, Minnesota ( collectively referred to as "Buyer").

In consideration of the covenants and agreements of the parties hereto, Seller and Buyer agree as follows:

1. **Offer/Acceptance.** Buyer offers to purchase from Seller and Seller agrees to sell to Buyer the real property in Hennepin County, Minnesota, legally described as follows:

Lot 1, Block 1, Indian Hills Peterson Addition

located at 6608 Indian Hills Road, Edina, property identification No.06-116-21 24 0033 (the "Property").

2. **Personal Property Included in Sale.** The following items of personal property owned by Seller and located on the Property are included in the sale: none

3. **Purchase Price, Terms and Closing.** The total purchase price for the Property is Five Hundred Forty Thousand and No/100 Dollars (\$540,000.00), payable as follows:

- 3.1 Ten Thousand and no/100 Dollars (\$10,000.00) as earnest money on the date of this Agreement, which Earnest Money has been paid directly to Seller by Buyer;
- 3.2 The balance, Five Hundred Thirty Thousand and no/100 Dollars (\$530,000.00), in certified funds or by wire transfer to be paid to Seller on November 15, 2002, the date of closing.

Seller agrees to deposit the \$10,000.00 Earnest Money in an interest bearing account.

4. **Deed.** Upon performance by Buyer, Seller shall execute and deliver to Buyer a Warranty Deed which conveys free, clear and marketable title to the Property. Seller and buyer shall also execute and deliver any other documents required pursuant to the terms of this Purchase Agreement.

5. **Restrictive Covenant.** Seller agrees that the Property is conveyed with an absolute restriction upon erection or building of any building, dwelling or other permanent structure upon the Property and said restriction shall run with the land. Buyer agrees to execute any and all documents necessary to effectuate this restriction in perpetuity.

6. **Real Estate Taxes and Special Assessments.** Real estate taxes due and payable in and for the year of closing, including installments of special assessments certified for payment, shall be prorated between Buyer and Seller on a calendar year basis to the actual Date of Closing. Buyer



shall assume special assessments pending as of the date of this Purchase Agreement for improvements that have been ordered by the City Council or other governmental assessing authorities. As of the date of this Purchase Agreement, Seller represents that Seller has not received a Notice of Hearing of a new public improvement project from any governmental assessing authority, the costs of which project may be assessed against the Property. If a special assessment becomes pending after the date of this Purchase Agreement and before the Date of Closing, Buyer may, at Buyer's option:

6.1 Assume payment of the pending special assessment without adjustment to the purchase price of the Property, or,

6.2 Declare this Purchase Agreement null and void by notice to Seller, and earnest money shall be refunded to Buyer.

Buyer shall pay real estate taxes and any unpaid special assessments due and payable in the year following Date of Closing and thereafter, the payment of which is not otherwise provided for in this Agreement. Seller warrants and represents that the taxes due and payable in the year of closing have a HOMESTEAD classification. Seller shall pay any deferred real estate taxes (including "Green Acres") taxes under Minn. Stat. § 273.111 or special assessment payment of which is required as a result of the closing of this sale.

**7. Property Sold "As Is."** Other than the representations and warranties made in Paragraph 12, Buyer is purchasing the Property "As Is" without any expressed or implied representation or warranties by Seller regarding the condition of the Property or any of the personal property included in the sale.

**8. Destruction of Property.** If the Property is destroyed or substantially damaged before the Date of Closing, this Purchase Agreement may be terminated at Buyer's option.

**9. Possession.** Seller agrees to deliver possession of the Property to the Buyer not later than the Date of Closing. All city water and sewer charges, and other utility charges on the Property, if any, shall be prorated between the parties as of the Date of Closing.

**10. Seller's Warranties and Representations.** Seller makes the following warranties and representations:

10.1 Seller warrants that buildings or structures located on the Property, if any, are entirely within the boundary lines of the Property.

10.2 Seller warrants that there is a right of access to the Property from a public right of way.

10.3 Seller warrants that there has been no labor or material furnished to the Property for which payment has not been made.

10.4 Seller has not received any notice from any governmental authority as to the existence of any Dutch elm disease, oak wilt, or other diseases of any trees on the Property nor does Seller have knowledge of any such diseases affecting any of the trees located on the Property.



10.5 Seller knows of no hazardous substances or petroleum products having been placed, stored, or released from or on the Property by any person in violation of any law, nor of any underground storage tanks having been located on the Property at any time.

10.6 Seller has not received any notice from any governmental authority as to violation of any law, ordinance or regulation affecting the Property.

10.7 If the Property is subject to restrictive covenants; Seller has not received any notice from any person as to a breach of the covenants.

10.8 Seller has not received any notice from any governmental authority concerning any eminent domain, condemnation, special taxing district, or rezoning proceedings.

10.9 Seller has not received any notice from any governmental authority indicating that any of the improvements on the property are nonconforming under current law.

The above warranties and representations shall survive the delivery of the warranty deed.

**11. Utilities.** Seller represents that:

11.1 City sewer ☒ is ☐ is not available to the Property through a service stub at the public right of way frontage line;

11.2 City water ☒ is ☐ is not available to the Property through a service stub at the public right of way frontage line;

11.3 Electricity ☒ is ☐ is not available to the Property through a service stub at the public right of way frontage line;

11.4 Natural gas ☒ is ☐ is not available to the Property through a service stub at the public right of way frontage line;

11.5 Telephone ☒ is ☐ is not available to the Property through a service stub at the public right of way frontage line;

**12. Default.** If Buyer defaults in any of the terms in this Agreement, Seller may terminate this Purchase Agreement, and on such termination all payments made under this Agreement shall be retained by Seller as liquidated damages, time being of the essence of this Agreement. This provision shall not deprive either party of the right of enforcing the specific performance of this Purchase Agreement, provided this Purchase Agreement is not terminated and action to enforce specific performance is commenced within six (6) months after such right of action arises.

**13. Notices.** All notices required under the terms of this Agreement shall be in writing and are effective as of the date of mailing.

**14. Well Disclosure.** Seller and Buyer agree that there is a well on the property, serviced by, paid for and for the benefit of the Lake Arrowhead Homeowner's Association. Buyer agrees to maintain this well on the Property under the same terms and conditions as maintained by Seller.

Warranty Deed: Individuals to Individuals

DEED TAX DUE: \$ 1836.00

Date: November 14, 2002.

FOR VALUABLE CONSIDERATION, Mark W. Peterson and Barbara A. Jerich, husband and wife, Grantors, hereby convey and warrant to Orrin M. and Marilyn Haugen, Grantees, as joint tenants with right of survivorship, real property in Hennepin County, Minnesota, described as follows:

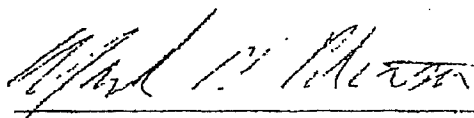
Lot 1, Block 1, Indian Hills Peterson Addition

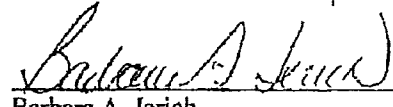
subject to an absolute restriction prohibiting the erection or building of any building, dwelling or other permanent structure upon the property and said restriction shall run with the land for the maximum period of time permitted by law, together with all hereditaments and appurtenances belonging thereto subject to the following exceptions:

NONE

Check if applicable

- ☐ The Seller certifies that the Seller does not know of any wells on the described real property.  
☒ A well disclosure certificate accompanies this document.  
☐ I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property has not changed since the last previously filed well disclosure.

  
Mark W. Peterson

  
Barbara A. Jerich

MAR 09 2013

A. 20

15. **Sewage Treatment System Disclosure.** Seller certifies that there is no sewage system on the Property.

16. **Lead Paint Disclosure.** Seller represents that there is no dwelling on the Property which could be subject to Lead Paint Disclosure requirements.

17. **Underground Storage Tank.** Seller certifies that there is no underground storage tank located on the Property.

18. **Seller's Affidavit.** Seller shall execute at closing a standard form Seller's Affidavit substantially in the form of Minnesota Uniform Conveyancing Form Blank (Form No. 116-M).

19. **Time is of the Essence.** Time is of the essence for all provisions of this Purchase Agreement.

We agree to purchase the Property for the price and on the terms and conditions set forth above.

**BUYER:**

**BUYER:**

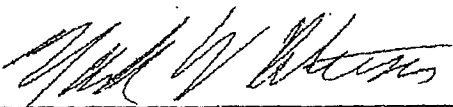
\_\_\_\_\_  
Orrin M. Haugen

\_\_\_\_\_  
Marilyn Haugen

We, the owners of the Property, accept this Purchase Agreement and the sale is made by this Purchase Agreement.

**SELLER:**

**SELLER:**



\_\_\_\_\_  
Mark W. Peterson



\_\_\_\_\_  
Barbara A. Jerich

**This is a legally binding contract.  
If not understood, seek an attorney's advice**

MAR 09 2013

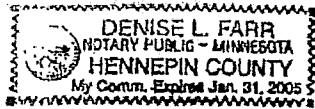
STATE OF MINNESOTA

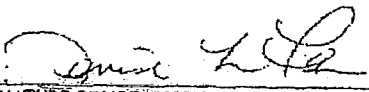
COUNTY OF HENNEPIN

} SS.

This instrument was acknowledged before me on November 14, 2002 by Mark W. Peterson and Barbara A. Jerich, husband and wife.

(NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK))



  
SIGNATURE OF NOTARY PUBLIC OR OTHER OFFICIAL

Check if part or all of land is Registered (Torrens) ☐  
Certificate of Title No. \_\_\_\_\_

THIS INSTRUMENT WAS DRAFTED BY:

Todd D. Andrews  
Andrews Law Office  
5200 Willson Road/ Suite 150  
Edina, MN 55424

Tax Statements for the real property described in this statement should be sent to (Include name and address of Grantee)

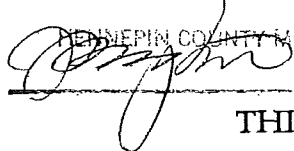
Orrin M. and Marilyn Haugen  
6612 Indian Hills Road  
Edina, MN

MAR 09 2013

CONSERVATION RESTRICTION

JUL 25 1990

(Open Space)

06-116-21 24-0033-0034  
HENNEPIN COUNTY MINN.  
 DEPUTY

THIS INDENTURE, Made this 24 day of July, 1990, between

Muriel V. Peterson, single, and Mark W. Peterson and Barbara A. Jerich, husband and wife, (hereinafter together called "Owner"), and the CITY OF EDINA, a municipal corporation under the laws of the State of Minnesota (hereinafter called "Edina").

WITNESSETH:

That Owner, in consideration of One Dollar (\$1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, does hereby Grant, Bargain, Sell and Convey unto Edina, its successors and assigns, Forever, a Conservation Restriction pursuant to Minnesota Statutes § 84.64, for the purposes and on the terms hereinafter specified, over, on and across the tracts or parcels of land lying and being in the County of Hennepin and the State of Minnesota, described in Exhibit A attached hereto and made a part hereof (hereinafter called "Easement Area").

TO HAVE AND TO HOLD THE SAME, Together with all the hereditaments and appurtenances thereunto belonging, or in anywise appertaining, to Edina, its successors and assigns, Forever. And Owner, for Owner and Owner's heirs, representatives, successors and assigns, covenants with Edina, its successors and assigns, that it is well seized in fee of the Easement Area, and has good right to convey the interests therein pursuant hereto, and that the Easement Area is free from all encumbrances except real estate taxes and installments of special



assessments payable therewith which are not yet due. And the Easement Area, in the quiet and peaceable possession of Edina, its successors and assigns, for the purposes hereby granted, against all persons lawfully claiming or to claim the whole or any part thereof, subject to the encumbrances hereinbefore mentioned, Owner will warrant and defend.

The purpose of this Conservation Restriction is to assure that the Easement Area shall be at all times remain as open space and constitute scenic surroundings. To accomplish this purpose, Owner, for Owner and Owner's heirs, representatives, successors and assigns, does hereby covenant and agree that:

1. No buildings, roads, signs, billboards or other advertising of any kind, and no utilities or other structures of any kind shall be hereafter erected or placed on or above any part of the Easement Area without the express prior written approval of Edina.
2. No soil or other substance or material shall be dumped or placed as landfill on the Easement Area without the express prior written approval of Edina.
3. No trash, waste or unsightly or offensive materials shall be dumped or placed on the Easement Area.
4. No loam, peat, gravel, soil, rock or other material substance shall be excavated, dredged or removed from the Easement Area without the express written approval of Edina.
5. No activities detrimental to drainage, flood control, water conservation, erosion control or soil conservation, or other acts or uses detrimental

to the Easement Area as a scenic open space shall be conducted or permitted to be conducted on the Easement Area.

6. The Easement Area shall at all times be kept planted, shrubbed, sodded and otherwise landscaped (hereinafter collectively called "landscaping") by Owner, Owner's heirs, representatives, successors and assigns, in a manner reasonably acceptable to Edina.

7. The Easement Area, including landscaping, shall be maintained at all times by Owner, Owner's heirs, representatives, successors and assigns, in full compliance with all applicable ordinances of Edina now or hereafter enacted.

8. This Conservation Restriction shall not operate to grant to Edina the right to use or improve, or to permit the public to use or improve, the Easement Area as or for a park.

9. The rights and remedies given by Minnesota Statutes § 84.65 shall be available to Edina. Also, if there shall be a violation or breach, or an attempt to violate or breach, any of the terms, covenants or conditions of this Conservation Restriction, Edina may prosecute any proceedings at law or in equity against the person, firm or corporation violating or breaching, or attempting to violate or breach, any such term, covenant or condition, to either prevent such violation or breach or to recover damages for such violation or breach. Also, Edina, in the event of such violation or breach, without notice, may, at its option, undertake to perform the term, covenant or condition so violated or breached, and the cost incurred, including attorneys' fees, with interest at the highest rate then allowed by law, or, if

no maximum rate is applicable, then at the rate of twelve percent (12%) per annum, shall be payable by Owner, Owner's heirs, representatives, successors and assigns, on demand made by Edina, its successors and assigns, and Owner, Owner's heirs, representatives, successors and assigns shall also pay all costs of collection thereof, including attorneys' fees, with interest thereon as above provided, if payment is not made on demand, whether suit be brought or not. In addition to other remedies then available for collection of such costs and interest, Edina may charge such costs and interest against the Easement Area and any other property then included in the same tax parcel or parcels as the Easement Area, in the same manner as special assessments (without, however, any notice or hearing of any kind) and collect the same with the real estate taxes against the whole of such tax parcel which are payable in the year following the year such costs and interest are so charged. If such charges are not paid, the whole of such tax parcel may be sold and conveyed in the same manner as lands forfeited for nonpayment of real estate taxes are sold and conveyed.

10. The terms, covenants and conditions hereof shall run with the land and shall be binding on all present and future owners and occupiers of the Easement Area, and shall inure only to the benefit of Edina, its successors and assigns, and may be amended or modified at any time and from time to time, by the sole act of Edina and the then owners of the Easement Area, and may be released at any time by the sole act of Edina.

IN TESTIMONY WHEREOF, Owner has caused these presents to be  
executed the day and year first above written.

Muriel V. Peterson  
Muriel V. Peterson

Mark W. Peterson  
Mark W. Peterson

Barbara A. Jerich  
Barbara A. Jerich

This instrument is exempt from State Deed Tax.

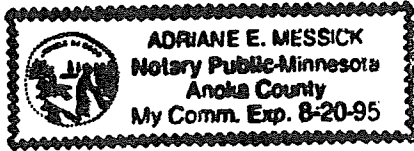
Drafted by:

Dorsey & Whitney (TSE)  
2200 First Bank Place East  
Minneapolis, Minnesota 55402



STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN)

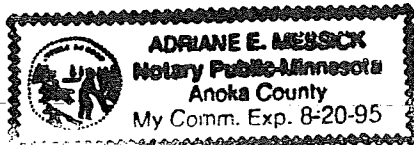
The foregoing instrument was acknowledged before me this 12<sup>th</sup> day of July, 1990, by Muriel V. Peterson, single.



Adriane E. Messick  
Notary Public

STATE OF MINNESOTA )  
 ) ss.  
COUNTY OF HENNEPIN)

The foregoing instrument was acknowledged before me this 13<sup>th</sup> day of July, 1990, by Mark W. Peterson and Barbara A. Jerich, husband and wife.



Adriane E. Messick  
Notary Public

## EXHIBIT A

That part of Lot 1, Block 1, INDIAN HILLS PETERSON ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota which lies northerly of a circular line concave to the North having a radius of 128.00 feet. Said curve passes through a point on the West line of said Lot 1, Block 1, distant 135.00 feet northerly from the Southwest corner of said Lot 1, Block 1, as measured along said West line, and passes through a point on the East line of said Lot 1, Block 1, distant 152.85 feet northerly from the Southeast corner of said Lot 1, Block 1, as measured along said East line, and said line there terminating; also

That part of Lot 2, Block 1, INDIAN HILLS PETERSON ADDITION, according to the recorded plat thereof, Hennepin County, Minnesota which lies northerly and easterly of the following described line:

Commencing at the most southerly corner of said Lot 2, Block 1; thence on an assumed bearing of North 41 degrees 48 minutes 00 seconds West, along the southwesterly line of said Lot 2, Block 1, a distance of 130.85 feet; thence North 23 degrees 21 minutes 53 seconds West a distance of 22.00 feet to the actual point of beginning of the line to be described; thence North 39 degrees 10 minutes 45 seconds East a distance of 20.59 feet; thence North 56 degrees 25 minutes 00 seconds East a distance of 74.00 feet; thence easterly and southeasterly a distance of 21.09 feet along a tangential curve concave to the southwest having a radius of 16.00 feet and a central angle of 75 degrees 31 minutes 21 seconds; thence North 56 degrees 25 minutes 00 seconds East, not tangent to said curve, a distance of 12.51 feet; thence South 33 degrees 35 minutes 00 seconds East a distance of 90.00 feet; thence South 76 degrees 43 minutes 40 seconds East a distance of 58.00 feet, more or less, to the East line of said Lot 2, Block 1 and said line there terminating.

## Jackie Hoogenakker

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**From:** Ries, Tom <TomRies@edinarealty.com>  
**Sent:** Wednesday, May 01, 2013 9:55 AM  
**To:** Jackie Hoogenakker  
**Subject:** 6612 Indian Hills Rd

Edina Planning Commission,

I'm writing in response to the notice mailed to us regarding the conditional use permit/Variance.

We have lived at 6600 Sally Lane since 1973 and have owned a lot on Indian Hills Road with our neighbor since the mid 70's.

Marcia and I are supportive of the request for variance from the three conditions requested for 6612 Indian Hills Rd, Edina, MN.

Please contact me if I can do anything else to be supportive.

Tom Ries  
6600 Sally Lane  
Edina, MN. 55439  
952-393-6600

## Jackie Hoogenakker

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**From:** Louise Segreto <lmsegreto@msn.com>  
**Sent:** Tuesday, April 30, 2013 11:41 AM  
**To:** Jackie Hoogenakker  
**Cc:** Mary Brindle (Comcast); kevin crudden  
**Subject:** 6612 Indian Hills Road-Request for CUP & Variance

With as large as the subject lot is, I fail to understand why the Applicant can not design a home that meets code requirements. We are opposed to this application; the request for approval to waive 3 requirements: height, and 2 set back requirements (Both Road and Lake) is excessive.

Additionally, this project demonstrates the City's need for a tree ordinance. Brush and tree removal was so extensive on the lot that the steep bank on Arrow Head Lake is already showing erosion. Erosion control and bank stabilization measures should be required by the City. As a property owner on Arrowhead Lake for over 12 years, I can attest that the Lake water quality has deteriorated significantly and sedimentation is a major issue.

When my husband and I purchased our home at 6720 Indian Hills Road, we extensively remodeled our house within the constraints of the Code out of respect for our neighbors and sensitivity to environmental issues without pushing the envelope.

Unfortunately, I will be out of town for the whole month of May and unable to attend the Planning Commission Meeting on May 8th.

Sincerely,  
Louise M. Segreto  
Kevin L. Crudden



## Jackie Hoogenakker

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**From:** Karen Bohn <kmbohn@gmail.com>  
**Sent:** Sunday, June 09, 2013 4:02 PM  
**To:** Jackie Hoogenakker  
**Subject:** 6612 Indian Hills Road, Edina, MN

Re: 2013.010

I am a property owner at 6620 Iroquois Trail in Edina, and received the Public Hearing Notice regarding the plans for the property at 6612 Indian Hills Road.

I am very concerned that the character of the neighborhood will be permanently destroyed by the plans for this tear-down and re-build. Already the property has been stripped of a natural 'forested' look which has been one of the hallmark features of the Indian Hills neighborhood. When you drive in to Indian Hills, you are immediately struck by the feeling of being in the woods, and it looks like this property owner's intent is to have a spartan manicured look more appropriate for Bloomington, Eden Prairie or Chanhassen. While I have no problems with the setback variance being requested, I do have a problem with changing the property's character so significantly. It is my hope that the owner will see fit to replace all the trees and greenery he/she has removed with an equal amount of landscape cover to return the ambiance of the property to its former state thereby keeping with the 'personality' of the Indian Hills neighborhood.

Karen Bohn  
6620 Iroquois Trail  
Edina, MN 55439

## Jackie Hoogenakker

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**From:** Dave Dent <dad1909@comcast.net>  
**Sent:** Monday, June 17, 2013 10:58 AM  
**To:** Jackie Hoogenakker  
**Subject:** case file: 2013.010 6612 Indian Hills Rd.

Jackie,

My wife and I strongly back the approval for variance (all 3) on the Liepke home. We have reviewed the files and visited the property and felt justification is warranted based on the lot being 2+ acres but presenting challenges due to the irregular shape and elevation issues. The original home was built in the 50's when styles were dramatically different and lot prices significantly cheaper. After speaking with both Michelle and Skip they will be conscientious builders and wonderful neighbors.

Jodi and Dave Dent  
6712 Arrowhead Pass

## Jackie Hoogenakker

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**From:** Louise Segreto <lmsegreto@msn.com>  
**Sent:** Tuesday, April 30, 2013 11:41 AM  
**To:** Jackie Hoogenakker  
**Cc:** Mary Brindle (Comcast); kevin crudden  
**Subject:** 6612 Indian Hills Road-Request for CUP & Variance

With as large as the subject lot is, I fail to understand why the Applicant can not design a home that meets code requirements. We are opposed to this application; the request for approval to waive 3 requirements: height, and 2 set back requirements (Both Road and Lake) is excessive.

Additionally, this project demonstrates the City's need for a tree ordinance. Brush and tree removal was so extensive on the lot that the steep bank on Arrow Head Lake is already showing erosion. Erosion control and bank stabilization measures should be required by the City. As a property owner on Arrowhead Lake for over 12 years, I can attest that the Lake water quality has deteriorated significantly and sedimentation is a major issue.

When my husband and I purchased our home at 6720 Indian Hills Road, we extensively remodeled our house within the constraints of the Code out of respect for our neighbors and sensitivity to environmental issues without pushing the envelope.

Unfortunately, I will be out of town for the whole month of May and unable to attend the Planning Commission Meeting on May 8th.

Sincerely,  
Louise M. Segreto  
Kevin L. Crudden

## Jackie Hoogenakker

---

**From:** Susan Rudrud <srudrud@icloud.com>  
**Sent:** Wednesday, May 01, 2013 9:45 AM  
**To:** Jackie Hoogenakker  
**Subject:** Proposed Use Permit 2013.010

The lot where the variance is requested has already removed a high number off mature trees in anticipation of a teardown and rebuild. They have ruined the lot and the lake side through this devastation of the woods. I do not support the variances to make an even bigger impact on the land and water quality. A property owner should remain within the confines of the restrictions when they buy the lot Thank you for your consideration of my point of view.  
Susan Rudrud

Sent from my iPad